

# **Proposed Marlborough Environment Plan**

**Section 42A Hearings Report for Hearing Commencing  
20 November 2017**

**Report dated 18 October 2017**

**Report on submissions and further submissions  
topic: Marlborough's Tangata Whenua Iwi**

**Report prepared by:**

**Rachel Anderson**

**Policy Portfolio Manager**



# Contents

<b>List of Abbreviations .....</b>	<b>ii</b>
<b>Introduction.....</b>	<b>1</b>
<b>Code of Conduct .....</b>	<b>1</b>
<b>Scope of Hearings Report .....</b>	<b>1</b>
<b>Submissions not considered .....</b>	<b>2</b>
<b>Further submissions not considered .....</b>	<b>2</b>
<b>Overview of Provisions Development .....</b>	<b>3</b>
<b>Overview of Provisions .....</b>	<b>4</b>
<b>Statutory Documents.....</b>	<b>5</b>
<b>Analysis of submissions .....</b>	<b>5</b>
<b>Key Matters .....</b>	<b>5</b>
<b>Pre-hearing meetings .....</b>	<b>5</b>
<b>Matter 1 - The Treaty of Waitangi/Te Tiriti of Waitangi principles and the Deeds of Settlement .....</b>	<b>6</b>
The Treaty of Waitangi/Te Tiriti o Waitangi principles.....	6
Deeds of Settlement.....	6
<b>Matter 2 - The impact of resource use on the mauri of natural resources.....</b>	<b>7</b>
Issue 3D - The impact of resource use on the mauri of natural resources .....	7
Cultural Indicators.....	7
<b>Matter 3 - The management of natural and physical resources in a manner that takes into account the spiritual and cultural values of iwi and respects and accommodates tikanga Māori. ....</b>	<b>9</b>
The manner in which natural and physical resources are managed.....	9
Developing Partnerships .....	12
Economic Interests .....	13
Statutory Acknowledgements.....	13
River and Freshwater Advisory Committee.....	15
Kaitiakitanga objective.....	15
Customary harvest .....	16
<b>Matter 4 - Opportunities for development on Māori land.....</b>	<b>18</b>
Objectives and Policies .....	18
Rules .....	19
Maps.....	20
<b>Matter 5 - Consultation .....</b>	<b>22</b>
Consultation with iwi .....	22
Iwi management plans .....	27
<b>Matter 6 - Resource management decision making .....</b>	<b>31</b>
Iwi involvement in decision making .....	31
Matters to ensure are considered in decision making.....	32
Subdivision effects assessment .....	36
Relationship of Chapter 3 to other MEP provisions .....	36
<b>Appendix 1: Recommended decisions on decisions requested .....</b>	<b>38</b>

## List of Abbreviations

AQNZ	Aquaculture New Zealand
CBRA	Clova Bay Residents Association Incorporated
Elkington Whanau	Elkington Whanau and Ngāti Kōata landowners who delegate kaitiakitanga to Hori (George) Elkington
Federated Farmers	Federated Farmers of NZ
Fishing Industry	The Fishing Industry Submitters
Forest & Bird	Royal Forest and Bird Protection Society of New Zealand Incorporated
Friends	Friends of Nelson Haven and Tasman Bay Incorporated
Heritage NZ	Heritage New Zealand Pouhere Taonga
IWG	Iwi Working Group
KCSRA	Kenepuru & Central Sounds Residents Association Incorporated
KiwiRail	KiwiRail Holdings Limited
MEP	Proposed Marlborough Environment Plan
MFA	Marine Farming Association Incorporated
MFA/AQNZ	Marine Farming Association Incorporated and Aquaculture New Zealand Limited
Ngāi Tahu	Te Rūnanga o Kaikōura and Te Rūnanga o Ngāi Tahu
Ngāti Rārua	Te Rūnanga o Ngāti Rārua
Ngāti Tama	Ngāti Tama ki Te Tau Ihu
Ngāti Toa	Te Rūnanga o Toa Rangitira
NZ	New Zealand
NZTA	New Zealand Transport Agency
Oil Companies	Z Energy Limited, BP Oil New Zealand Limited and Mobil Oil New Zealand Limited
Panel	MEP Hearings Panel
Pernod Ricard	Pernod Ricard Winemakers New Zealand Limited
Port Marlborough	Port Marlborough of NZ Limited
Rangitāne	Te Rūnanga a Rangitāne o Wairau
RMA	Resource Management Act 1991
RPS	Regional Policy Statement
Te Ātiawa	Te Ātiawa o Te Waka-a-Māui

## Introduction

Ko Rachel Anderson tōku ingoa. My name is Rachel Anderson.

I am a Policy Portfolio Manager in the Environmental Policy Group at the Marlborough District Council. My qualifications and experience are as follows:

- Bachelor of Science – Geology and Geography;
- 13 years experience in resource management.

I was involved in the preparation of the MEP in my role as Policy Portfolio Manager. Of particular relevance to this hearing topic, I was involved in the development of the Chapter 3 including working with the Iwi Working Group (discussed later in this report) to achieve the outcome that was notified. I also worked extensively on Volume 2 of the MEP, including the rules and standards that are covered in this report.

I have read Council's Section 32 reports.

## Code of Conduct

I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note and that I agree to comply with it.

I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person.

I am authorised to give this evidence on the Council's behalf.

## Scope of Hearings Report

This report is prepared in accordance with section 42A of the Resource Management Act 1991 (RMA).

In this report I assess and provide recommendations to the Hearing Panel on submissions made on Volume 1, Chapter 3 of the MEP – Marlborough's Tangata Whenua Iwi. In addition, I also assess and provide recommendations on district rules that directly give effect to the provisions in Chapter 3. This includes submissions on Introduction, Issues, Objectives, Policies, Methods, Rules and Standards, and Maps.

In particular, this report contains my assessment of submissions on the following parts of Chapter 3. The **recommendations to accept, accept in part or reject** these submission points are reflected in Appendix 1.

- Introduction (partial)
- Issue 3D
- Objectives 3.2, 3.4 and 3.5
- Policies 3.1.1 to 3.1.7
- Methods of Implementation 3.M.2, 3.M.3, 3.M.4 and 3.M.6

This report does not contain any assessment relating to the following parts of Chapter 3 as either no submissions were received, or submissions sought retention of the provisions as notified and any further submissions sought for the submission points to be allowed. Submission points of this nature are **recommended to be accepted** and are included in Appendix 1.

- Introduction (partial)
- Issues 3A to 3C and 3E to 3J
- Objectives 3.1 and 3.3
- Methods of Implementation 3.M.1, 3.M.5, 3.M.7 and 3.M.8

In addition, this report contains my assessment of submissions on the following parts of Volume 2. The **recommendations to accept, accept in part or reject** these submission points are reflected in Appendix 1.

- Standard 3.3.47.1
- Standard 4.3.45.1
- Rule 5.1.3
- Standards 5.3.2.1 and Standard 5.3.3.1
- Standard 7.3.3.1
- Standard 8.3.3.1

This report does not contain any assessment relating to the following parts of Volume 2 that are within the scope of this hearing topic, as either no submissions were received, or submissions sought retention of the provisions as notified and any further submissions sought for the submission points to be allowed. Submission points of this nature are **recommended to be accepted** and are included in Appendix 1.

- Rules 3.1.49 and 3.1.50
- Standards 3.3.46.1 to 3.3.46.3
- Standards 3.3.47.2 and 3.3.47.3
- Rules 4.1.47 and 4.1.48
- Standards 4.3.44.1 to 4.3.44.3
- Standards 4.3.45.2 and 4.3.45.3
- Standards 5.3.2.2 and 5.3.2.3
- Rule 5.1.4
- Standards 5.3.3.2 and 5.3.3.3
- Rule 7.1.4
- Standards 7.3.3.2 and 7.3.3.3
- Rule 8.1.4
- Standards 8.3.3.2 and 8.3.3.3

Submissions received in relation to marae mapping on Zoning Maps 40 and 42 in Volume 4 are also assessed in this report.

There are also submitters who have sought the addition of new provisions, therefore assessments of those submissions are also included within this report.

As submitters who indicate that they wish to be heard are entitled to speak to their submissions and present evidence at the hearing, the recommendations contained within this report are preliminary, relating only to the written submissions.

For the avoidance of doubt, it should be emphasised that any conclusions reached or recommendations made in this report are not binding on the Hearing Panel. It should not be assumed that the Hearing Panel will reach the same conclusions or decisions having considered all the evidence to be brought before them by the submitters.

## Submissions not considered

Point 1187.1 of the submission of Te Rūnanga a Rangitāne o Wairau (Rangitāne) was originally recorded against Chapter 3 but on further consideration of the decisions sought, has been shifted to the Water Allocation and Use as the matters raised are more appropriately addressed under that topic. The further submissions from Te Ātiawa and Ngai Tahu on point 1187.1 have also been shifted to the allocation of Water Allocation and Use topic.

## Further submissions not considered

The following further submissions have not been considered in the assessments within this report as, in the opinion of the report writer, they are not intended to apply to the provisions addressed in this report.

### William and Kathleen Rainbow

This further submitter lodged their further submission in opposition to the whole of the submission for Friends and all 213 submission points of the Friends submission have the following reason stated for the Rainbow's making their further submission – *“The increase in area is not justified. It is inconsistent with the relevant*

*definitions, and other provisions of the Plan and the Act. The proposed change cannot be supported by a s32 analysis."*

In my view, there are no provisions relevant to this hearings topic that relate to this further submission given the reasons provided. There are other parts of the MEP that will be the subject of separate hearing reports, which will pick up this further submission in the way in which I believe it was intended.

#### The New Zealand King Salmon Company Limited

One of the points this further submitter lodged their further submission on was submission point 12 of the Friends submission. Submission point 12 relates to Issue 3H, which is "*The importance of consulting with iwi.*" The Friends submission seeks to retain Issue 3H as notified. The following reason is stated on The New Zealand King Salmon Company Limited further submission against the Friends submission point 12 – "*The reasons for our opposition are: 1. The enlargement of the areas of outstanding natural features and landscapes is not justified. 2. What is proposed is not in accordance with: i. The Resource Management Act 1991; ii. A section 32 analysis; and iii. Other relevant plan provisions and policy statements.*"

In my view, the reason The New Zealand King Salmon Company Limited seek to disallow submission point 12 of the Friends submission is incongruent with the content of the Friends submission and the Issue the subject of the submission. There are other parts of the MEP that will be the subject of separate hearing reports, which will pick up the content of this further submission for assessment in the way in which I believe it was intended.

#### Te Ātiawa

This further submitter lodged their further submission in opposition to the whole of the submission for Trustpower Limited (submission 1201) and all 173 submission points of the Trustpower Limited submission have the following reason stated by Te Ātiawa for making their further submission – "*Te Ātiawa opposes the submitters views to reduce recognition and consultation rights afforded to iwi under the Treaty of Waitangi and recent settlements. Te Ātiawa also oppose the submitters views to "down-grade" the consideration of values and issues of cultural significance and even provide for offsets. Te Ātiawa opposes the changes sought which amount to exclusion of iwi from any resource management process.*"

Trustpower Limited's submission point 1201.7 relates to Objective 3.3, which Trustpower Limited seeks to be retained as notified. Trustpower Limited seek no changes to this policy as alluded to in the further submission reason of Te Ātiawa. In addition, it seems highly unlikely that Te Ātiawa would intend for Trustpower Limited's point 7 to be disallowed as that would, in effect, be seeking that Objective 3.3 is deleted. This would be at odds with the further submissions of Te Ātiawa on three other submitters (Heritage NZ, Friends and Ngai Tahu) who are all also seeking that Objective 3.3 be retained as notified.

Trustpower Limited's submission point 1201.6 relates to Objective 3.2, which Trustpower Limited seeks to be retained as notified. Trustpower Limited seek no changes to this policy as alluded to in the further submission reason of Te Ātiawa. In addition, it seems highly unlikely that Te Ātiawa would intend for Trustpower Limited's point 1201.6 to be disallowed as that would, in effect, be seeking that Objective 3.3 is deleted. This would be at odds with the further submissions of Te Ātiawa on three other submitters (Heritage NZ, Friends and Ngai Tahu) who are all also seeking that Objective 3.2 be retained as notified or retained with amendment.

In my view, for the reasons outlined above, the further submissions of Te Ātiawa on Trustpower Limited's submission points 1201.6 and 1201.7 have not been considered further in this report. There are other parts of the MEP that will pick up this further submission in the way in which I believe it was intended.

## Overview of Provisions Development

Section 62(1)(b) of the RMA states that "*A regional policy statement must state....(b) the resource management issues of significance to iwi authorities in the region...*". Chapter 3 in Volume 1 of the MEP – Marlborough's Tangata Whenua Iwi – was developed by an Iwi Working Group (IWG) to identify issues of significance to iwi in our region. All of the objectives and policies developed to respond to the issues identified are Regional Policy Statement (RPS) provisions.

There are eight tangata whenua iwi authorities in Marlborough, commonly referred by the monikers – Rangitāne, Ngāti Koata, Ngāti Kuia, Ngāti Toa, Ngāti Rārua, Te Ātiawa, Ngāti Apa and Ngāi Tahu. It is noted that Ngāti Tama have statutory acknowledgements within Marlborough. Prior to the Deeds of Settlement, the Council understood that the rohe of Ngāti Tama was fully within the Nelson/Tasman region. The Council has acknowledged that Ngāti Tama is not referred to in Chapter 3 of the MEP as the iwi has not been part of the consultation process. For this reason, Ngāti Tama is also not referred to in this report, however it is acknowledged that the Council has identified Ngāti Tama as part of the Council – Te Tau Ihu future relationship.

In 2007 the Council approached each of the eight iwi authorities in order to establish an appropriate process to identify the resource management issues of significance to iwi in the region. This resulted in the establishment of an IWG with the specific role of assisting the Council in the review of the RPS. The IWG comprised of one nominated representative from each of the iwi authorities and remuneration for participation was funded by the Council.

At an early stage, Ngāti Apa made the decision not to participate in IWG hui on the basis that they have a limited rohe in Marlborough and were reassured that iwi interests would be adequately represented by group members. Representatives from six of the remaining seven iwi authorities have regularly attended hui.

The IWG held nearly 30 hui between 2007 and the presentation of Chapter 3 to the Council by the IWG for adoption in 2014. Although the focus of the IWG was on the identification and expression of issues of significance to Marlborough's tangata whenua iwi, as kaitiaki for many natural resources in Marlborough, the IWG also reviewed all other available draft RPS provisions to assess the extent to which the issues they identified were addressed by provisions in other draft chapters.

The IWG representatives and Council staff also had regard to the three iwi management plans lodged with the Council in preparing Chapter 3. Those iwi management plans are Te Tau Ihu Mahi Tuna Eel Management Plan, the Ngāti Koata No Rangitoto Ki Te Tonga Trust - Iwi Management Plan and Te Rūnanga o Kaikōura Environmental Management Plan. It is noted that since the ratification of Chapter 3 two further iwi management plans have been lodged with the Council, Te Rūnanga O Ngāti Kuia Pakohe Management Plan and Te Ātiawa o Te Waka-a-Māui Iwi Environmental Management Plan.

## Overview of Provisions

In addition to identifying issues of significance to the iwi authorities, Chapter 3 describes the iwi resource management framework and describes the environmental management concepts within that framework. This provides essential context for the remainder of the chapter.

The issues identified by the IWG fell into one of three categories:

- Spiritual and cultural issues (Issues 3A to 3F);
- Relationship and process issues (Issues 3G to 3J);
- Issues shared in common with the community. These are stated in other MEP chapters and the IWG considered the wording of these issues.

Five objectives and seven policies have been developed to respond to the issues identified in Chapter 3. Eight methods are included in Chapter 3 to implementation the provisions.

Volume 2 of the MEP contains rules and, for Permitted Activities, associated standards. The provisions that are directly related to Chapter 3 are the marae and papakāinga rules and standards in Chapters 3, 4, 5, 7 and 8 of Volume 2. There are provisions in the General Rules Chapter that relate to water take and use for marae and papakāinga, they are to be specifically assessed as part of the water allocation and use hearings topic. However, the district and regional rules connected to marae and papakāinga activities cannot be considered in complete isolation from each other, as will be discussed later in this report.

It is acknowledged that between the presentation of Chapter 3 to the Council in 2014 and the notification of the MEP in 2016 further drafting of the MEP took place that may not have been considered by the IWG, particularly in the area of water allocation and use, and the details of the rules across the MEP.



## Statutory Documents

The statutory documents relevant to the provisions discussed in this report are all set out in the section 32 report for entitled "Chapter 3: Marlborough's tangata whenua iwi. It is noted that since the completion of the section 32 report the Historic Places Act 1993 has been replaced by the Heritage New Zealand Pouhere Taonga Act 2014.

## Analysis of submissions

There were approximately 115 submissions received on provisions relevant to the Marlborough's Tangata Whenua Iwi topic.

References by the writer to "iwi" throughout this report are to be considered as references to iwi authorities and Marlborough's tangata whenua iwi.

## Key Matters

I have set out my analysis of the submissions points by matter under the headings below. For practical purposes provisions have been divided up as logically as possible and assessed under these matters accordingly however, that potentially has the effect of minimising some of the links between provisions. For example, submissions on Objective 3.2 are assessed under Matter 2, however Objective 3.2 is relevant to all six matters.

Matter 1: The Treaty of Waitangi/Te Tiriti o Waitangi principles, and the Deeds of Settlement.

Matter 2: The impact of resource use on the mauri of natural resources, including cultural indicators are discussed under this matter.

Matter 3: The management of natural and physical resources in a manner that takes into account the spiritual and cultural values of iwi and respects and accommodates tikanga Māori. Discussed under this matter are: the manner in which natural and physical resources are managed, developing partnerships, economic interests, statutory acknowledgements, river and freshwater advisory committee, kaitiakitanga objective, and customary harvest.

Matter 4: Opportunities for development on Māori land.

Matter 5: Consultation and iwi management plans.

Matter 6: Resource management decision making, including: iwi involvement in decision making, matters to ensue are considered in decision making, subdivision effects assessment, and the relationship of Chapter 3 to other MEP provisions.

## Pre-hearing meetings

There have been no pre-hearing meeting for this topic.

# Matter 1 - The Treaty of Waitangi/Te Tiriti of Waitangi principles and the Deeds of Settlement

## The Treaty of Waitangi/Te Tiriti o Waitangi principles

### Submissions and Assessment

Within the Introduction section of Chapter 3, under the heading "*Te Tiriti o Waitangi (the Treaty of Waitangi) in a Marlborough Context*", there is discussion on the Te Tiriti principles. Of particular relevance is the reference to the principles mentioned not being definitive, and the evolving nature of the principles as Te Tiriti is applied to existing and new situations. It is also noted that the application of the principles to resource management in Marlborough is an ongoing process. In its submission, Ngāti Toa (point 166.1) seek amendment to the MEP to make explicit what Treaty principles are being referred to in the MEP. In the reasons supporting its submission the concern of Ngāti Toa is expressed as, the identification of a gap in Chapter 3 where the principles are referenced but no definitions of the principles are provided.

For the reasons expressed within the relevant text in the Introduction to Chapter 3, and summarised above, in my view it would not be helpful to amend the principles identified in the MEP to offer it as a complete and finite reference. It is appropriate that the MEP recognise the potential for the understanding of the principles to change over time.

If the reason behind the submission point is considered to be clarification of the decision sought as being about defining the principles referenced, rather than amending the principles expressed themselves, then I do not hold a particularly strong view on this point. Two thoughts to consider are, would providing general explanatory text on each principle in the Introduction detract from the consideration of the related objectives and policies in a local context by Plan users, and the submitter has not provided any specific wording for principle definitions.

The Ngāti Toa submission point 166.1 covers four matters, one of which are Te Tiriti principles and that part of the submission point is assessed above. There are three further submitters on submission point 166.1 however, due to the reasons expressed for the further submissions, in my view none of them are specifically further submitting on the matter of Te Tiriti principles.

### Recommendation

Based on the decision sought I recommend no change to the Introduction section of Chapter 3, under the heading "*Te Tiriti o Waitangi (the Treaty of Waitangi) in a Marlborough Context*", and therefore that **part of submission point 166.1 is rejected.**

## Deeds of Settlement

### Submissions and Assessment

The Fishing Industry seek an amendment to the introductory text on page 3-2 of Chapter 3 to acknowledge the Fisheries Deed of Settlement and its implementation under the Maori Fisheries Act 2004. My understanding is that fisheries related matters are not able to be dealt with under the RMA and therefore it is not clear from the submission as to why this reference needs to be included.

This submission was recorded as part of a submission on Policy 3.1.1 (submission point 710.4) rather than a submission point in its own right. There are no further submitters related specifically to the part of submission point 710.4 relating to the amendment to the Introduction.

### Recommendation

It is my recommendation that the part of the Fishing Industry **submission point 710.4 relating to the amendment to the Introduction is rejected.**

## **Matter 2 - The impact of resource use on the mauri of natural resources.**

### **Issue 3D - The impact of resource use on the mauri of natural resources**

#### **Submissions and Assessment**

Issue 3D is "*The impact of resource use on the mauri of natural resources.*" Paragraph two of the explanation to Issue 3D discusses waterbodies in particular, and they are referenced at the beginning of paragraph three. In its submission (point 1186.37) on Issue 3D, Te Ātiawa seeks that "*the issue is amended to include the coastal waters*". Based on the reason given for the submission, I have considered the decision sought to be an amendment to the explanation for Issue 3D, rather than amendment of the Issue itself. It is pointed out in the submission that the term "*waterbody*" is defined in the RMA as only including freshwater, and the MEP defaults to this definition, therefore references to waterbodies in the explanation to the Issue do not include coastal water. The submitter suggests this makes it unclear if the "*natural resources*" referenced in Issue 3D include coastal water.

If the definition of "*waterbody*" in the RMA is to be relied on, then the definition of "*natural resources*" should also be relied on, the latter of which includes water without any limitation, i.e. all water. Therefore, whether coastal water is specifically referenced in the explanation to the Issue or not, the Issue itself clearly by the RMA's definitions includes coastal water as part of natural resources. Therefore, in my view coastal waters are not excluded from consideration as suggested by the submitter. In addition, there is a reference in the penultimate sentence of paragraph two in the explanation to "*any discharge of contaminants into fresh or coastal waters*" (my emphasis). This is followed by reference in the final sentence to the "*discharge of human sewerage and stock effluent to water*" (my emphasis), without limitation to freshwater. This supports the view that there is nothing about Issue 3D, as written, that excludes consideration of the impact of resource use on the mauri of coastal waters, as part of natural resources.

Two further submitters (Elkington Whanau and Port Marlborough) support the submission of Te Ātiawa and seek it be allowed.

Two submitters (Friends 716.8 and Ngāi Tahu 1189.6) seek that Issue 3D be retained as notified, these positions were supported by one further submitter, Te Ātiawa. Te Ātiawa sought both submissions seeking retention of the Issue as notified be allowed. Clearly this is at odds with their own submission and Te Ātiawa may clarify their position at the Hearing.

#### **Recommendation**

It is my recommendation that **submission point 1186.37 is rejected** as it is necessary to amend the explanation to Issue 3D to resolve the submitters concerns. Should the Panel be inclined towards amending the wording, the submitter has not offered specific alternate/additional wording therefore I am unable to make an assessment of changes. Further, it is my recommendation that **submission points 716.8 and 1189.6 are accepted**. Therefore, I recommend Issue 3D and its explanation are retained as notified.

## **Cultural Indicators**

#### **Submissions and Assessment**

Chapter 3 of the MEP contains a Method, 3.M.5, which is specifically about cultural indicators. This provision did not receive any submissions for or against. However, there are submission points not specifically connected to 3.M.5 that may be most appropriately assessed in the context of that provision.

The submission of Ngāti Rārua (point 1188.1) does not actually reference Chapter 3 or any specific provisions within it, however it does contain text that relates to cultural indicators, specifically the lack of cultural indicators. For the purpose of this assessment, I have made the assumption that the submission is on Chapter 3. The decision sought by Ngāti Rārua is "*formal engagement with iwi and the removal of the offending clauses from the plan*".

As the reason for the submission indicates the matter of concern is a *lack* of cultural indicators, it would seem appropriate that the second part of the decision sought be disregarded in this instance. This leaves the matter of formal engagement in the decision sought, although this was not related directly to cultural indicators. In Chapter 3, Method 3.M.5 is about cultural indicators. The Method discusses the development of indicators as being within the non-regulatory work space of the Council, and that indicators would be developed in partnership with iwi. This is reflected at the Issue level in the last paragraph of the explanation to Issue 3D, which discusses the importance to iwi of developing cultural indicators to compliment environmental indicators in state of environment reporting. Cultural indicators were an important matter discussed at IWG hui and the provisions around them in Chapter 3 reflect the outcome of that formal consultation process.

Te Ātiawa is a further submitter to submission point 1188.1, however the further submission is not considered to apply to this particular point for the purposes of this assessment. The further submission, with the same reason, was lodged against all of the points in the submission of Ngāti Rārua and the reason given, in my view, is not specifically related to point 1188.1 with regards to cultural indicators.

In the submission of Ngāti Toa under point 166.17 there are three parts relevant to Chapter 3. One of these parts seeks the following, "*Develop a Tangata Whenua programme, monitoring, support, information, guidelines. This could include Cultural health monitoring to measure the success of Policy 3.1.13*". The reference to Policy 3.1.13 is assumed to be a typographical error and should refer to Policy 3.1.1. To the extent that this submission may be seeking a method of implementation around cultural indicators, in my view that is addressed in Chapter 3 by 3.M.5. Beyond that, I am not in a position to assess the decision sought as the submission is not sufficiently specific in nature to enable this. There are three further submitters to point 166.17, Port Marlborough in opposition, and Te Ātiawa and Federated Farmers in support. In my view, Port Marlborough's further submission does not relate to the relevant part of 166.17 discussed here, and the other two submitters are rather general in their reasons for support and it is not clear whether they specifically considered this part of the submission point.

## Recommendation

It is my recommendation that the part of the Ngāti Rārua **submission point 1186.1 that is assumed to be related to Volume 1, Chapter 3 and references cultural indicators is rejected.**

It is my recommendation that the part of the Ngāti Toa **submission point 116.17 related to cultural indicators is rejected.**

## **Matter 3 - The management of natural and physical resources in a manner that takes into account the spiritual and cultural values of iwi and respects and accommodates tikanga Māori.**

### **The manner in which natural and physical resources are managed**

#### **Submissions and Assessment**

Objective 3.2 has attracted four submissions, three seek retention of the provision as notified and one seeks retention of the provision but with amendment. Two of the submitters that support Objective 3.2 as notified, Heritage NZ and Friends, are supported by further submissions from Te Ātiawa that seek their submissions be allowed. The third submitter that supports Objective 3.2 as notified, Trustpower, has no relevant further submitter. The submission seeking retention of the provision but with amendment is from Ngāi Tahu and is supported by Port Marlborough and Te Ātiawa through further submissions. The further submissions of Te Ātiawa seek both that the submissions seeking retention of the Objective as notified be allowed and that the submission that seeks an amendment to the Objective be allowed, clearly this provides a conflict in the outcomes sought and Te Ātiawa may clarify at the Hearing.

The amendment to Objective 3.2 sought by Ngāi Tahu in submission point 1189.14 is that, rather than *taking into account* spiritual and cultural values of iwi, *particular regard is had* to the values. Further, explicit reference is made to Marlborough's tangata whenua iwi being kaitiaki, and rather than *accommodating* tikanga, tikanga is *enabled*. The reasons given for the amendments sought relate to a better alignment with section 7 of the RMA, and to strengthen the Objective. With regards to the first amendment, in my view, as there are references to "*the ethic and exercise of kaitiakitanga*" in the explanation to the Objective, an alignment with the direction "*shall have particular regard to*" in section 7 is appropriate given the matters in which regard shall be given include kaitiakitanga (section 7a) and the ethic of stewardship (section 7aa). I am comfortable with the amendment seeking to add reference to Marlborough's tangata whenua iwi being kaitiaki, as a whole in my view it is clear in Chapter 3 Marlborough's tangata whenua iwi are kaitiaki, however I have no concerns about the clarification if the Panel is of a mind to make that amendment.

The final amendment to change "*accommodates tikanga Māori*" to "*enables tikanga Māori*", in my view, is more significant. One of the concerns I hold is that the MEP as a whole uses the word *enable* generally as a signal that there are Permitted Activity provisions that give effect to such references. In this instance, should the amendment be made, there would not be those permissive provisions, which may cause some confusion to resource/MEP users and result in an inconsistent approach within the MEP. In my view, *accommodate* has a less active intent and is more along the lines of not creating barriers, whereas *enable* has a more active intent and signals action would be taken to facilitate something. Section 7 of the RMA requires the Council to manage the use, development, and protection of natural and physical resources having particular regard to kaitiakitanga, I am not certain this extends as far as *enabling* tikanga.

The submission of Ngāi Tahu has two supporting further submissions, Port Marlborough seeks the submission be allowed as the amended wording better reflects s7 of the RMA and Te Ātiawa have applied a common reason to their further submission on all points in the Ngāi Tahu submission. In addition, as raised above, there are conflicting views expressed in the further submissions of Te Ātiawa on all the submissions on Objective 3.2.

#### **Recommendation**

It is my recommendation that the Ngāi Tahu **submission point 1189.14 is accepted in part**, and that Objective 3.2 is amended as shown below. The Heritage NZ **submission point 768.6**, the Friends **submission point 716.16** and the Trustpower Limited **submission point 1201.6** are **accepted in part** to the extent that the parts of the Objective not amended below are retained as notified.

Objective 3.2 is amended as follows:

*"Natural and physical resources are managed in a manner that has **particular regard to** ~~takes into account~~ the spiritual and cultural values of Marlborough's tangata whenua iwi **as kaitiaki** and respects and accommodates tikanga Māori."*

## Submissions and Assessment

Policy 3.1.1 has attracted six submissions, one (Friends 716.20) seeks retention of the provision as notified, three (Ngāi Tahu 1189.18, Ngāti Toa 166.1 in part and Federated Farmers 425.3) support the Policy but seek amendments and two (Trustpower Limited 1201.1 and Fishing Industry 710.4 in part) oppose the Policy in part.

The submission of Friends is supported by a further submission from Te Ātiawa that seeks the Friend's submission to retain the Policy as notified be allowed. Te Ātiawa have lodged further submissions on other submitters to Policy 3.1.1 that seek amendments, which is at odds with its support of Friends and Te Ātiawa may clarify at the Hearing.

In its submission, Ngāi Tahu seek minor wording changes that in its view correct the drafting of Policy 3.1.1, which it believes is written more like an Objective. In my view, the Policy as currently worded provides a better link back to the objectives, particularly Objective 3.2, which uses the words "*in a manner*". While there is nothing offensive in the suggested word changes to parts (a) to (e) of the Objective, in my view there is not sufficient gain to warrant accepting the amendments.

Ngāi Tahu also seek an amendment to Objective 3.2 that would indicate the methods the Council will use to implement this Policy, in particular part (c) regarding promoting awareness and understanding, part (d) relating to recognising the rights of tangata whenua and (e) iwi defining their own preferences around sustainable management. In my view it would be inappropriate to amend the Policy in this manner as the concerns would be better addressed through the addition of new methods of implementation, if the existing methods were found to be lacking. The submitter has not provided any specific amended wording for the Policy relating to this concern, or any additional methods, therefore I am unable to make any further assessment.

The submission of Ngāi Tahu has one supporting further submission from Te Ātiawa. Te Ātiawa have applied a common reason to their further submission on all points in the Ngāi Tahu submission. In addition, as raised above, there are conflicting views expressed in the further submissions of Te Ātiawa on the submissions on Policy 3.1.1.

In the submission of Ngāti Toa under point 166.1 there are four parts to the submission, one of which relates to Policy 3.1.1. Ngāti Toa seek the addition of a new part (f) to the Policy as follows, "*recognises that the principle of consultation requires both parties to have the time and resource to consult appropriately*". In my view part (a) of the Policy already states that the principles of Te Tiriti have to be taken into account, and that would include the duty to consult. I would be comfortable to add that principle to the examples within part (a) to raise the profile of the principle and, perhaps, assist with the links to some of the relevant methods of implementation, such as 3.M.1 and 3.M.4. With regards to time and resources, in my view this is linked to the partnerships developed between iwi and the Council (3.M.1) and consultation between iwi, applicants and the Council (3.M.4). Method 3.M.1 contains scope to consider time and resources when expressing how partnerships will manifest themselves and 3.M.4 references cultural impact assessments and cultural value reports, which under Method 3.M.6 are the responsibility of applicants in terms of costs. It is my observation that the time and resourcing for iwi is generally recognised as being an issue that needs to be addressed, however in my view it is not appropriate to reference these in this Policy in the manner sought as it may be interpreted as a signal that the Council will fund iwi consultation. Funding is not an appropriate matter for a policy in the MEP and therefore I would be concerned about, in essence promising something that may not be delivered. Through the IWG process it can be seen that the Council does provide resourcing for iwi consultation, where it has been identified as an appropriate use of resources in the Long Term Plan or Annual Plan, and an explicit reference to resourcing in a resource management plan is not necessary for that to occur.

The submission of Ngāti Toa is supported by a further submission from Te Ātiawa. Te Ātiawa have applied a common reason to their further submission on all points in the Ngāi Tahu submission. In addition, as raised above, there are conflicting views expressed in the further submissions of Te Ātiawa on the submissions on Policy 3.1.1. There are two other further submissions, from Federated Farmers and Port Marlborough that seek the submission of Ngāti Toa to be allowed in part. In my view, based on the reasons given, neither of these further submissions relate to the part of the Ngāti Toa submission concerning Policy 3.1.1.

The submission of Federated Farmers seeks to delete part (d) from Policy 3.1.1, which relates to recognition of the rights of tangata whenua and the status of iwi as distinct from that of interest groups and members of

the public. In the view of Federated Farmers (d) is a duplication of (a), which relates to taking Te Tiriti principles into account, and in any case, the submitter has doubts that iwi do have a higher status than any other party under the RMA.

I simply do not see (d) as a replication of (a), and nothing in the submitters reasons for this submission explains why they have proffered this view. With regards to the status of iwi, clearly if the Council shared the view of Federated Farmers then (d) would not have been include in the Policy 3.1.1, which it is was with meaningful intention.

Further submitters, Te Ātiawa, Ngāti Rārua and Ngāti Tahu, sought that submission point 425.3 of Federated Farmers be disallowed. The reasons for the further submissions of Te Ātiawa and Ngāti Rārua were generic across all of the submission points of Federated Farmers, that is not to say they were not relevant but they were not specific to point 425.3. Ngāti Tahu opposed this submission point as they are of the view (d) is consistent with section 8 of the RMA, and it prefers its own amendments to Policy 3.1.1. Pernod Ricard further submitted in support of the submission and seeking that it be allowed However, the reason is ambiguous and requires an assessment of the Pernod Ricard submission on the MEP, consideration of the whether the decisions sought by Federated Farmers achieve the purpose of the RMA and subsequently a determination by the reader as to whether that assessment and consideration equates to Pernod Ricard indeed being in support of Federated Farmers' submission point 425.3.

The submission of Trustpower Limited seeks to delete part (e) from Policy 3.1.1, which recognises the right of each iwi to define their own preference for sustainable management of natural and physical resources, where it is not inconsistent with RMA. The reasons for Trustpower Limited's opposition to (e) is that, in its view, it infers that iwi will define what constitutes the sustainable management of natural and physical resources, and that is a role for decision makers on resource consent applications and statutory planning documents. Trustpower Limited also state that the Policy incorrectly suggests that the sustainable management of natural and physical resources will be achieved where activities are "not consistent" with the RMA.

In my view, Trustpower Limited have overstated the meaning of the statements in Policy 3.1.1(e), the scope is clearly limited to each iwi defining its *own* preferences, not that collectively iwi will define what constitutes sustainable management as a whole. This is likely, for example, to manifest itself as an iwi defining in an iwi management plan what sustainable management of a particular resource means to them specifically. The proviso of part (e), and appropriately so in my view, is that in the context of the MEP, this will only be recognised if it is not inconsistent with the RMA. This segues into the second part of Trustpower Limited's reason for its submission, which I struggle to understand. I am hesitant to make assumptions, but if the reason relates to using the phrase "*not inconsistent*" rather than "*is consistent*" with the RMA, then I am of the view that in the context it is used in (e), that is in relation to non-statutory iwi documents, the current wording of (e) is not inappropriate. The reference to the RMA is a qualifying statement on the remainder of (e), it should not be interpreted as meaning something more than that on a wider scale.

Further submitters, Te Ātiawa, Ngāti Tahu and Forest & Bird, all sought that Trustpower Limited's submission point 1201.1 be disallowed. The reasons for the further submission of Te Ātiawa are generic across all of the submission points of Trustpower Limited and do not appear to specifically relate to point 1201.1. Ngāti Tahu opposed this submission point as its view is it appropriate to provide for the different preference of each iwi in this matter, and it prefers its own amendments to Policy 3.1.1. Forest & Bird has opposed point 1201.1 on the basis that it would allow progressive degradation of waterways. There were no further submissions in support.

The final submission (point 710.4) on Policy 3.1.1 is from the Fishing Industry and it seeks the addition of a new part (f) to the Policy as follows, "*recognises the fishing rights allocated and protected under the Māori Fisheries Settlement and avoids, remedies or mitigates any adverse effects on the exercise of those rights caused by activities managed under the RMA*". The reasons the Fishing Industry are seeking this addition are related to its view of the Councils obligations and responsibilities in relation to the RMA, the Fisheries Act and the Māori Fisheries Deed of Settlement. My understanding is that fisheries related matters are not able to be dealt with under the RMA and therefore it is not clear from the submission as to why this reference needs to be included.

There is one further submission on the relevant part of Fishing Industry submission point 710.4 it is from Te Ātiawa and seeks for the point to be allowed. The reasons for the further submission of Te Ātiawa are

generic across all of the submission points of the Fishing Industry, however part of the reason does appear to be specifically related to point 710.4. Te Ātiawa state that it supports alignment with the Māori Fisheries Act and the provision of protection.

## Recommendation

That the Friends **submission point 716.20 is accepted in part** to the extent that the parts of the Policy not amended below are retained as notified. That the Ngāi Tahu **submission point 1189.18**, the Trustpower Limited **submission point 1201.1**, the Federated Farmers **submission point 425.3** and the Fishing Industry **submission point 710.4 are rejected**.

That the Ngāti Toa **submission point 166.1 is accepted in part**, and that Policy 3.1.1(a) is amended as follows:

*“(a) takes into account the principles of the Treaty of Waitangi/Te Tiriti o Waitangi, including kāwanatanga, rangatiratanga, **duty to consult**, partnership, active protection of natural resources and spiritual recognition;”*

## Developing Partnerships

### Submissions and Assessment

Policy 3.1.7 has attracted three submissions, two (Ngai Tahu 1189.25 and Friends 716.26) seek retention of the provision as notified and one (Federated Farmers) seeks retention of the provision but with amendment. The two submitters that support Policy 3.1.7 as notified are supported by further submissions from Te Ātiawa that seek their submissions be allowed but only provides common reasons to its further submissions on all points in the Ngāi Tahu and Friends submissions, no reasons are particularly specific to Policy 3.1.7.

The first part of the submission from Federated Farmers supports the Policy but seeks amendment to the explanation to the Policy. Neither specific or general wording for such an amendment has been stated in the relief sought by the submitter, however the reasons provided suggest it has a view that the policy is unclear about the relationship between partnerships and decision making. Federated Farmers are concerned that the Policy may lead to co-governance and, in its view, that would not be consistent with the intention of the RMA or appropriate for lower level planning. In my view, Policy 3.1.7 and its explanation are not ambiguous. They do not discuss co-governance, and I do not view that as an issue. This is a high level RPS policy that clearly sets out the importance of partnerships to give effect to all of the policies in Chapter 3, and it is supported by a specific method about developing partnerships (3.M.1). It is not a policy about decision making, however decision making is referenced in various ways in other provisions in Chapter 3. In my view, it is neither necessary to signal in this Policy whether partnerships may ultimately result in co-governance of some nature, or not. The explanation to Method 3.M.1 reflects the lack of prescription around how a partnership may be developed, this is appropriate and should not be unnecessarily constrained by boundaries being established in policy.

The second part of the Federated Farmers submission seeks to have policies similar to Policy 3.1.7 included in the MEP relating to the development of partnerships with other groups, such as between farmers and the Council. The merits of this part of the submission have not been assessed as it would not be appropriate to add policies of that nature to the Marlborough's tangata whenua iwi chapter of the MEP as Federated Farmers does not appear to seek the inclusion of iwi in the partnerships they seek through these additional policies.

The Federated Farmers submission has two further submitters in opposition that seek that point 425.7 be disallowed, they are Te Ātiawa and Ngāti Rārua. Both further submitters only provide common reasons to their further submissions on all points in the Federated Farmers submission, no reasons were particularly specific to the relief sought.

Pernod Ricard further submitted in support of the submission of Federated Farmers on Policy 3.1.7 and seeking that it be allowed. However, the reason is ambiguous and requires an assessment of the Pernod Ricard submission on the MEP, consideration of the whether the decisions sought by Federated Farmers achieve the purpose of the RMA and subsequently a determination by the reader as to whether that



assessment and consideration equates to Pernod Ricard indeed being in support of Federated Farmers' submission point 425.7.

## Recommendation

It is my recommendation that the Ngāi Tahu **submission point 1189.25** and the Friends **submission point 716.26 are accepted**, and that the Federated Farmers **submission point 425.7 is rejected**. Therefore, I recommend Policy 3.1.7. and its explanation are retained as notified.

## Economic Interests

### Submissions and Assessment

The MFA and AQNZ have lodged identical submissions seeking new or amended provisions, the submission points are 426.8 and 401.8 respectively. The submissions are not specific in nature as to what type of provision should be added or which provision should be amended, although the reasons for the submissions suggests it is the policies that are considered deficient. The submissions seek that, "*The economic interests of iwi should be expressly recognised*". While not specific about which economic interests, the example given in the reason relates to aquaculture, and given the members represented by both submitters, it seems likely the focus is on the economic interests of iwi in aquaculture. Given the lack of any greater detail in the submissions, I am unable to assess these submissions any further and in their current form do not recommend they are accepted. It is also noted that the aquaculture provisions are not in the MEP currently as they are going through a separate process to be developed. As part of that process, which includes iwi, iwi values are being identified and will ultimately be part of a first schedule process. The notification of the aquaculture provisions may be a more appropriate opportunity for the MFA and AQNZ submissions, should the organisations still deem them necessary at that time.

The MFA submission has four further submitters, the KCSRA and the CBRA in opposition and Te Ātiawa and the Red Sky Trust in support. The KCSRA and CBRA are of the view that the economic interests have been adequately represented in the MEP and the changes proposed would create uncertainty and unfairness, and therefore not encourage sustainable management. The Red Sky Trust provides no reason for their support, and Te Ātiawa states it supports the MFA's views on cultural commercial issues.

The AQNZ submission has two further submitters, Te Ātiawa and the Red Sky Trust, both in support. The Red Sky Trust provides no reason for their support, and Te Ātiawa states it supports the MFA's views on cultural commercial issues.

## Recommendation

It is my recommendation that the MFA **submission point 426.8** and the AQNZ **submission point 401.8 are rejected**.

## Statutory Acknowledgements

### Submissions and Assessment

Method of implementation 3.M.2 has attracted relevant submissions from two submitters, Port Marlborough (point 433.3) and Ngāti Toa (points 166.11, 166.12 and 166.13). Both submitters support the method but seek amendments. The submission on 3.M.2 from Irrigation NZ Incorporated (point 778.3) will be considered as part of the assessment of submissions on method 3.M.3 later in this report, in my view, based on the content of the submission the submitter intended to submit on 3.M.3, not 3.M.2.

Port Marlborough seek the following amendment to the second sentence of the method, "*The Council must also have regard to the Statutory Acknowledgement relating to a statutory area when deciding whether the relevant trustees are affected persons in relation to an activity ~~within, adjacent to, or directly affecting the~~ statutory area and for which an application for resource consent is made.*" The reason for the amendment is sought is that the requirement to notify for every application within or adjacent to a statutory area may is not necessary for all activities within or adjacent to a statutory area to achieve the objectives of Chapter 3. The

current wording of the method directly reflects the legislation that sets out the settlements for Te Tau Ihu iwi, for example, section 27(1) of the Ngāti Toa Rangatira Claims Settlement Act 2014 states that, “.....a relevant consent authority must have regard to the statutory acknowledgement relating to a statutory area in deciding.....whether the trustee of the Toa Rangatira Trust is an affected person in relation to an activity **within, adjacent to, or directly affecting the statutory area.....**” (my emphasis). In my view, it would not be appropriate to deviate from the requirements set out the settlement legislation when describing Method 3.M.2.

Port Marlborough's submission was supported through a joint further submission by the MFA/AQNZ, however the reason for the further submission suggests it can be disregarded as the reason relates to amendments to rules applying to ports. The further submission of Te Ātiawa sought that submission point 433.3 of Port Marlborough be disallowed. The reasons for the further submission are generic across all of the submission points of Port Marlborough, that is not to say they are not relevant but they are not specific to point 433.3.

Ngāti Toa submitted on three aspects of Method 3.M.2. Firstly, under submission point 166.11, Ngāti Toa seek the following amendment to the second sentence of the method, “*The Council must also have regard to the Statutory Acknowledgement relating to a statutory area. **Iwi must be consulted to identify when deciding whether the relevant trustees are they are an affected persons party** in relation to an activity.....*” The reason for the amendment sought is that in the submitters view this sentence implies that it is the Council that decides whether iwi are an affected party, and this should not be the process. It notes that statutory acknowledgements are the trigger for applicants and the Council to consult. In a similar vein to my assessment of the Port Marlborough submission, the current wording of the method directly reflects the legislation that sets out the settlements for Te Tau Ihu iwi, for example, section 27(1) of the Ngāti Toa Rangatira Claims Settlement Act 2014 states that, “.....**a relevant consent authority** must have regard to the statutory acknowledgement relating to a statutory area **in deciding.....whether the trustee of the Toa Rangatira Trust is an affected person** in relation to an activity.....” (my emphasis). In my view, it would not be appropriate to deviate from the requirements set out the settlement legislation when describing Method 3.M.2. Furthermore, in my view the concerns of Ngāti Toa regarding consultation and the identification of affected parties are addressed by Method 3.M.4, and the requirement under the statutory acknowledgements for a summary of all resource consent applications lodged with the Council to be provided to iwi prior to the section 95 decision whether to notify the application being made.

There are three further submitters to submission point 166.11, Te Ātiawa support the submission, and Port Marlborough and Federated Farmers oppose the submission. Te Ātiawa seek that the submission of Ngāti Toa be allowed but only provide common reasons to its further submissions on all points in the Ngāti Toa submission, no reasons are particularly specific to 3.M.2. Port Marlborough opposes the submission on the basis that not all resource consents applications will require consultation with iwi to determine whether or not iwi are an affected party. The reasons for the further submission of Federated Farmers appear to reference the method itself rather than the submission, so I am unclear on its position.

The second aspect of 3.M.2 that Ngāti Toa has submitted on is recorded as submission point 166.12. On this point Ngāti Toa seek the following amendment to the first sentence of the method, “*The relevant trustees for an iwi **authority** must be provided with a summary of a resource consent application.....*” The reason for the amendment sought is that in the submitters view the current wording is incorrect, and clarity is sought as to what is meant by iwi. I do not know that I particularly agree with the submitters assertion that the current wording is wrong, however I also do not see any particular issue with making the amendment if the Panel agrees it provides clarity for Plan users.

The third aspect of 3.M.2 that Ngāti Toa has submitted on is recorded as submission point 166.13. On this point Ngāti Toa seek the addition of an appendix of all statutory acknowledgments. The Council is required to provide all the information recording the statutory acknowledgments within its resource management documents. The Council currently does this for the Wairau/Awatere and Marlborough Sounds Resource Management Plans, and will also do so for the MEP. This information was not included in the notified Plan as it is not subject to the first schedule process.

Te Ātiawa is the only further submitter on points 166.12 and 166.13 and it seeks that these submissions of Ngāti Toa be allowed but only provide common reasons to its further submissions on all points in the Ngāti Toa submission, no reasons are particularly specific to 3.M.2.

## Recommendation

It is my recommendation that the Port Marlborough **submission point 433.3** and the Ngāti Toa **submission points 166.11 and 166.13 are rejected**.

That the Ngāti Toa **submission point 166.12 is accepted**, and that method of implementation 3.M.2 is amended as follows:

*"The relevant trustees for an iwi **authority** must be provided with a summary of a resource consent application....."*

## River and Freshwater Advisory Committee

### Submissions and Assessment

In the submission of Ngāti Toa under point 166.1 there are four parts to the submission, one of which relates to the River and Freshwater Advisory Committee that is part of the Te Tau Ihu settlement deeds. Ngāti Toa seeks to include the provision of the River and Freshwater Advisory Committee and make provisions within the MEP to meet legal obligations. The reason for the submission states that there is no reference to the River and Freshwater Advisory Committee, and indicates that it is the responsibility of the three Te Tau Ihu councils to establish the Committee as set out in the Deeds.

The MEP does discuss the River and Freshwater Advisory Committee in the section of the Introduction to Chapter 3 headed "*Deeds of Settlement*". It is clear in the deeds and associated legislation that the Committee is to be established by the Te Tau Ihu Iwi, the members of the Committee are drawn solely from the eight relevant iwi and that the three Councils are to attend meetings at the request of the Committee. The responsibility for establishing the River and Freshwater Advisory Committee does not lie with the three Te Tau Ihu councils.

### Recommendation

It is my recommendation that Ngāti Toa **submission point 166.4, as it relates to the River and Freshwater Advisory Committee is rejected**.

## Kaitiakitanga objective

### Submissions and Assessment

In submission point 166.16, Ngāti Toa seek a specific objective for kaitiakitanga, with the possible inclusion of a mauri objective here also. The submission also mentions a possible rule or method. Neither the specific wording of a proposed objective, or amendment wording for the existing objective, has been provided. Based on the lack of proposed provision text, and information to support the submission in general, I am not able to make an assessment of the relief sought.

A specific separate submission (point 166.17) by Ngāti Toa requesting permitted activity rules for kaitiakitanga is assessed later in this report.

Submission point 166.16 received three further submissions from Te Ātiawa, Port Marlborough and Ngāi Tahu. Te Ātiawa supports the submission and Port Marlborough supports the submission in principle but notes the objective sought is not clearly set out. Ngāi Tahu supports the submission seeking a specific objective and states a policy and methods would also be required, it views this as consistent with section 7(a) of the RMA. Further, Ngāi Tahu sees this as a broader application than Policy 3.1.3, which refers to the exercise of kaitiakitanga but only within the context of an application of resource consents that are likely to affect iwi.

In my view, iwi practice kaitiakitanga, it is not something that needs to be explicitly provided for at policy, method or rule level. I believe that being prescriptive down to lower level provisions has the potential to be disabling rather than enabling. It is important that, besides the matters covered by Policy 3.1.3 in direct response to section 7(a) of the RMA, the provisions do not create barriers to kaitiakitanga. I believe that is what is sought to be achieved by the provisions in Chapter 3 in response to Issue 3B.

In submission point 1023.3, P Rene seeks that kaitiakitanga be recognised and implemented, and developed as a legal framework, by a proper forum before the MEP becomes operational. Neither the specific wording of a proposed provision or wording to amend the existing provisions has been provided. Based on the lack of proposed provision text, and information to support the submission in general, I am not able to make an assessment of the relief sought.

Submission point 1023.3 received two further submissions in support from Te Ātiawa and Port Marlborough. Port Marlborough supports the submission in principle but notes the objective sought is not clearly set out.

The submission (point 1188.1) of Ngāti Rārua contains text that relates to kaitiakitanga, however the submission itself does not actually reference Chapter 3 or any specific provisions within it. One of three aspects referenced in the submission that could be assumed to be associated with Volume 1, Chapter 3 relates to kaitiakitanga. The decision sought by Ngāti Rārua is "*formal engagement with iwi and the removal of the offending clauses from the plan*".

As the reason indicates the matter of concern is the lack of consideration for the exercise of kaitiakitanga, it would seem appropriate that the second part of the decision sought could be disregarded in this instance. This leaves the matter of formal engagement being the decision sought. The provisions of Chapter 3, which respond to Issue 3D, were discussed at IWG hui and the provisions in the Chapter reflect the outcome of that formal consultation process.

Te Ātiawa is a further submitter to submission point 1188.1, however the further submission is not considered to apply to this particular point for the purposes of this assessment. The further submission, with the same reason, was lodged against all of the points in the submission of Ngāti Rārua and the reason given, in my view, is not specifically related to point 1188.1 as it relates to kaitiakitanga.

## Recommendation

It is my recommendation that the Ngāti Toa **submission point 166.16**, P Rene's **submission point 1023.3** and the Ngāti Rārua **submission point 1188.1** are rejected.

## Customary harvest

### Submissions and Assessment

In submission points 1189.118 and 1189.119, Ngāti Tahu seek the addition of a new permitted activity rule with standards for customary harvest. The rule would apply everywhere, i.e. it would be a general rule. Ngāti Tahu describe customary harvesting as the sustainable harvest of customary materials or resources, for purposes such as medicine, weaving, or for consumption. Customary harvest occurs within a framework of tikanga. The two standards proposed are that the customary harvest must be undertaken in accordance with tikanga and where the material or resource is located on private property, an access agreement must be in place with the landowner, or alternatively, permission sought from the landowner on a case by case basis.

Submission points 1189.118 and 1189.119 received two further submissions in support, from Federated Farmers and Te Ātiawa. Federated Farmers supports the submission as long as the requirement to get landowner permission is included.

In my view, customary harvest as an activity would not be appropriate to add as an additional rule to the MEP unless the activity was very explicitly defined, and I am not sure it could be (or should be). It is likely that, given the examples provided by the submitter, many of the harvest activities may not require any regulation at all, so potentially an explicit permitted activity may lead to unintended restrictions depending how the provision was established. For some matters, such as those controlled by section 14 of the RMA, there may be confusion as to whether the customary harvest rule applies if water is considered a customary

resource, or if the rules established for the taking and use of water would apply. Potentially the same confusion could arise around vegetation clearance rules.

With regards to the first standard sought should the rule be added to the MEP, it is not clear how the Council would establish whether the harvest was undertaken in accordance with tikanga. The second standard relating to landowner permission, in my view would not be appropriate. Any person going onto private property has to have appropriate permissions and the enablement of activities in the MEP does not circumvent this requirement. An explicit standard of this nature on one rule may cause confusion for MEP users as it may imply landowner permission is not required in cases where it is not stipulated in standards.

### Recommendation

It is my recommendation that the Ngāi Tahu **submission points 1189.118 and 1189.119 are rejected.**

## **Matter 4 - Opportunities for development on Māori land.**

### **Objectives and Policies**

#### **Submissions and Assessment**

Objective 3.4 has attracted four submissions, three (Heritage NZ 768.8, Friends 716.18 and Ngāi Tahu 1189.16) seek retention of the provision as notified and one (Ngāti Toa 166.15) seeks retention of the provision subject to amendment. The three submitters that seek retention of Objective 3.4 as notified are supported by further submissions from Te Ātiawa. The reasons given for the supportive positions include, supporting iwi to develop on their ancestral lands, and consistency with sections 6(e), 7(a) and 8 of the RMA. The submission of Ngāti Toa, which seeks amendment to the Objective, is supported by Te Ātiawa through a further submission. The further submissions of Te Ātiawa seek both that the submissions seeking retention of the Objective as notified be allowed, and that the submission that seeks an amendment to the Objective be allowed. Clearly this provides a conflict in the outcomes sought and Te Ātiawa may clarify their position at the Hearing.

Objective 3.4 is about opportunities for development on Māori land, and it is the limit to Māori land that Ngāti Toa have expressed concerns about in its submission. Specifically, Ngāti Toa seeks for papakāinga to not be limited to Māori land only. The section 32 report states that Objective 3.4 provides a clear directive from the IWG to address a resource management issue of significance, especially Issue 3F, which is about the provision of papakāinga. Issue 3F is very clear that the enablement of marae and papakāinga activities is connected specifically to Māori land, and references the Te Ture Whenua Act 1993 to clarify what constitutes Māori land. The discussion under the Issue also notes that iwi recognise that developments need to be mindful of the effects of the physical needs of papakāinga, such as water supply and sewerage disposal. If the development of papakāinga as a permitted activity was not limited to Māori land, then not only could it be done anywhere but it could be done by any person irrespective of whether they were tangata whenua. This has the potential to have significant adverse effects on the environment. In my view, the current wording of Objective 3.4 is more appropriate for achieving the purpose of the RMA.

Issue 3F received two submissions (Friends 716.5 and Ngāi Tahu 1189.3), both sought the retention of the Issue as notified and were supported in further submissions from Te Ātiawa. A change to Objective 3.4 as suggested by Ngāti Toa would result in an Objective that was inconsistent with the subsequent provision. Specifically, this is Policy 3.1.6, of which no submissions in relation to the limiting of activities to Māori land were received, and the permitted activity rules and definition for papakāinga in Chapters 3, 4, 5, 7, 8 and 25 of Volume 2, which also received no submissions in relation to the limiting of activities to Māori land. While these provisions could potentially be amended as consequential changes, a thorough assessment and section 32 analysis of the impact of the changes would be necessary.

Policy 3.1.6 gives effect to Objective 3.4 as it enables opportunities for marae and papakāinga development on Māori land. The Council received two submissions (Ngāi Tahu 1189.24 and Friends 716.25) on this provision. The submission of Ngāi Tahu supports the retention of the Policy as notified, as in its view, the provision is consistent with sections 6, 7 and 8 of the RMA. The Friend's submission seeks an amendment to Policy 3.1.6 to cross reference it with the objectives and policies in Chapter 11 Natural Hazards.

The Friend's are concerned that, in promoting iwi aspirations, the safety and health of people is not put at risk. The permitted activity rules for marae and papakāinga in Chapters 3, 4, 5, 7 and 8 of Volume 2 are subject to standards for the construction and siting of buildings, which must be met for the activity to take place without resource consent. These standards include setbacks from water features, stopbanks and plantation forests, and restrictions on buildings and structures in Flood Hazard Areas. Any non-compliance with these standards would require a resource consent, which would enable a planning officer to assess the proposed activity against the objectives and policies in Chapter 11. In my view, the cross referencing sought by the submitter is not necessary as the outcome sought can already be achieved with the provisions as written.

Te Ātiawa have further submitted on both submissions on Policy 3.1.6, therefore seeking that both the Policy as notified be allowed and the Policy with amendments be allowed. Clearly this provides a conflict in the outcomes sought and Te Ātiawa may clarify their position at the Hearing. In both instances Te Ātiawa only provides common reasons to its further submissions on all the submission points of the submitters and the reasons are not particularly specific to Policy 3.1.6.

## Rules

### Submissions and Assessment

Volume 2 of the MEP contains the permitted activity rules, and associated standards, for marae activity and papakāinga that give effect to or implement the provisions of Chapter 3, in particular Objective 3.4 and Policy 3.1.6. There are permitted activity rules enabling marae activity in Chapters 3, 4 and 5 of Volume 2, which are specific to properties that are currently or proposed to be marae. No submissions were received on the marae activity rules or associated standards in Chapters 3 and 4.

A submission was lodged by Waikawa Marae Incorporated (point 446.1) on Rule 5.1.3, which enables marae activity in the Urban Residential 1 and 2 Zones, seeking an amendment to the appellations within the Rule to delete "*Sec 47 Blk XIII Linkwater SD and Waikawa West 6 & 7 ML 6923*". No reason is provided to justify the request, however the appellations in the MEP were provided by iwi through the IWG, therefore they are in the best position to advise if specific properties should be added or removed. The submission of Waikawa Marae Incorporated is supported by Te Ātiawa.

In its own submission Te Ātiawa (point 1186.129) sought to retain the appellations Waikawa Marae Incorporated seek to have removed, however as the further submission was later in time, it is assumed that is the preferred position of Te Ātiawa is removal of those properties. In the submission of Te Ātiawa an additional appellation is sought to be added, "*Sec 1 SO 426964*", as this property was recently gifted to the iwi through the settlement process. The submission of Te Ātiawa is supported by a further submission from the Elkington Whanau. As stated above, the appellations in the MEP were provided by iwi, therefore they are in the best position to advise what specific properties should be added or removed. In addition to recommending the amendments requested in the submissions are accepted, I note consequential changes to the heading for the standards associated with Rule 5.1.3 are also appropriate.

In submission points 1186.135 and 1186.141 Te Ātiawa seek the provision of marae activity, as a permitted activity, also be applied to the Rural Living and Coastal Living Zones. As indicated above, the marae activity rules in the MEP are specific to properties stated in the rules, and as advised by iwi through the IWG. In the absence of specific appellations where marae activity is occurring, or is anticipated to occur, I consider the addition of a generic rule to these zones to be inappropriate. The proposed rules as submitted would create uncertainty within the Rural Living and Coastal Living Zones as to where marae activity may take place. There is also a permitted activity rule regarding the taking and using of water for marae activities, which is included in the MEP on the basis of being utilised for the sites of activity specified in the MEP. Given the full or over-allocated nature of many of the region's water resources, to potentially provide a provision enabling marae activities to take place anywhere within the Rural Living or Coastal Living Zones could be inconsistent with the sustainable management of those resources. The Council intends to undertake regular plan change updates to the MEP once operative so there would be the opportunity to add rules of this nature, but specific in detail, in the future. The submission of Te Ātiawa is supported by a further submission from the Elkington Whanau.

Chapters 3, 4, 5, 7 and 8 of Volume 2 all have the same rule and associated provisions for papakāinga. One of the standards limits the number of papakāinga units to five per Computer Register. This standard within each chapter has been submitted on in opposition by Te Ātiawa (submission points 1186.120, 128, 132, 137 and 143) and it seeks that the Standards (3.3.47.1, 4.3.45.1, 5.3.3.1, 7.3.3.1 and 8.3.3.1) be deleted. Chapters 3, 4 and 5 of Volume 2 all have a rule for marae activity, which includes a similar standard limiting the number of papakāinga units on a marae to five. This standard relating to the marae activity rule in Chapter 5 has been submitted on in opposition by Te Ātiawa (submission point 1186.131) and it seeks that Standard 5.3.2.1 be deleted.

The reasons for the submissions of Te Ātiawa on these provisions states that there is no provision for expansion to provide for aging members. The submissions of Te Ātiawa are supported by a further submission from the Elkington Whanau, which seeks that restrictions within the rules are removed so that papakāinga can be provided without unnecessary hurdles.

The permitted activity rules, and associated standards, for marae activity and papakāinga give effect to or implement the provisions of Chapter 3, in particular Objective 3.4 and Policy 3.1.6. Objective 3.4 is about opportunities for development on Māori land and it particularly addresses Issue 3F, which concerns the provision of papakāinga. Policy 3.1.6 gives effect to Objective 3.4, and sets up the direction for the permitted

activity rules. The discussion under the Issue notes that iwi recognise that developments need to be mindful of the effects of the physical needs of papakāinga, such as water supply and sewerage disposal.

The Policy also makes a link between enablement of activities and potential limits on scale, extent and intensity. If the development of papakāinga as a permitted activity was not limited in some way, in this case to five units, then there is the potential for there to be significant adverse effects on the environment. There is a permitted activity rule regarding the taking and using of water for papakāinga, which is included in the MEP on the basis of being utilised for a maximum of five units per site. Given the full or over-allocated nature of many of the region's water resources, and the potential for interference effects between neighbouring abstractions, to potentially provide a provision for unlimited papakāinga development could have unacceptable adverse effects on the environment. In my view, the rules with the current standards more appropriately achieve the purpose of the RMA. Te Ātiawa state there is no provision for expansion to provide for its aging members, however while there is no permitted activity allowing for expansion beyond five papakāinga units, there is no barrier in the MEP to iwi seeking a resource consent. Provided potential adverse effects from greater than five units were addressed, in my view, the provisions in Chapter 3 would not be unsupportive of a higher level of intensity.

The submission of Ngāti Rārua (point 1188.1) contains text that relates to papakāinga, however the submission itself does not actually reference Chapter 3 or any specific provisions within it. If the submission is assumed to be associated with Chapter 3 and is to be considered, then the reference in the submission to papakāinga is that "*insufficient consideration is provided for....future papakāinga options*". The decision sought is formal engagement with iwi and the removal of the offending clauses from the MEP.

On the matter of formal engagement, the provisions within Chapter 3 were discussed at IWG hui and the rules that give effect to them reflect the outcome of that formal consultation process. If assumptions are made, the second part of the decision sought by Ngāti Rārua could be considered to be akin to the submission of Te Ātiawa on the limits on papakāinga units in the permitted activity rules. On this basis, the assessment of this part of the Ngāti Rārua submission is as for Te Ātiawa above. Te Ātiawa is a further submitter in support of submission point 1188.1.

## Maps

### Submissions and Assessment

In its submission (points 1186.229 and 1186.232) Te Ātiawa seek to have marae sites mapped on Zone Maps 40 and 42. In the drafting of the MEP a decision was made to list the appellations of marae sites in the Permitted Activity rules instead of mapping them in the MEP as an overlay. To retain the consistency with this approach for all marae, I do not recommend the mapping the sites as requested by Te Ātiawa.

The mapping of sites of significance is matter discussed elsewhere in this report, if that is the purpose of the request from Te Ātiawa rather than just general mapping of marae.

The submission of Te Ātiawa is supported by a further submission from the Elkington Whanau, however the reason given is general to all submission points of Te Ātiawa and does not appear to be specific to points 1186.229 and 1186.232.

### Recommendation for Matter 4

It is my recommendation that the Heritage NZ **submission point 768.8**, the Friends **submission point 716.18** and the Ngāi Tahu **submission point 1189.16 are accepted**, and that the Ngāti Toa **submission point 166.15 is rejected**. Therefore, I recommend Objective 3.4 and its explanation are retained as notified.

It is my recommendation that the Ngāi Tahu **submission point 1189.24 is accepted**, and that the Friends **submission point 716.25 is rejected**. Therefore, I recommend Policy 3.1.6 and its explanation are retained as notified.



That the Waikawa Marae Incorporated **submission point 446.1 is accepted** and that the Te Ātiawa **submission point 1186.129 is accepted in part**, and that Rule 5.1.3 and Heading 5.3.2 are amended as follows:

"5.1.3. Marae activity on:

(a) *Sec 23, 40, 43 and 46 Blk III Taylor Pass SD and Sec 3 SO 6922.*

(b) *Lot 1 & 2 DP 11713, ~~Waikawa West 6 & 7 ML 6923~~ and **Sec 1 SO 426964** ~~Sec 47 Blk XII Linkwater SD~~", and*

"5.3.2. Marae activity on:

(a) *Sec 23, 40, 43 and 46 Blk III Taylor Pass SD and Sec 3 SO 6922.*

(b) *Lot 1 & 2 DP 11713, ~~Waikawa West 6 & 7 ML 6923~~ and **Sec 1 SO 426964** ~~Sec 47 Blk XII Linkwater SD~~".*

The amendments to Rule 5.1.3, if accepted, will require consequential amendments to Standard 2.3.3.1 related to Rule 2.2.3, which enables the taking and using of water for marae activities. This will be addressed in the hearing on water allocation and use.

It is my recommendation that the Te Ātiawa **submission points 1186.135 and 1186.141 are rejected** and no new rules are added to Chapters 7 and 8 of Volume 2 at this time to enable marae activity.

It is my recommendation that the Te Ātiawa **submission points 1186.120, 1186.128, 1186.131, 1186.132, 1186.137 and 1186.143** and the Ngāti Rārua **submission point 1188.1 are rejected** and the standards relating to the number of papakāinga units remain in the provisions as notified.

It is my recommendation that the Te Ātiawa submission points **1186.229 and 1186.232 are rejected** and no changes are made to Zone Maps 40 and 42.

## Matter 5 - Consultation

### Consultation with iwi

#### Submissions and Assessment

Policy 3.1.2, which is about early consultation between applicants and iwi, has attracted eight submissions, three (Friends 716.21, KiwiRail 873.2 and Ngāi Tahu 1189.19) seek retention of the provision as notified, and five (Horticulture NZ 769.4, Federated Farmers 425.5, Oil Companies 1004.1, Ravensdown Limited 1090.2 and Trustpower Limited 1201.2) either oppose or support the Policy subject to amendment.

The assessment of all the submissions on Policy 3.1.2 is combined and found at the end of this section. In this instance, there are sufficient commonalities between the submissions that, in my view, it is efficient to address them together. The *details of the submissions* and further submissions on Policy 3.1.2 are under each submitter's name but *the assessment* is at the end of the section.

The parts of the Oil Companies submission point 1004.1 and the Ngāi Tahu submission point 1189.20 seeking new policies, the part of the Ngāti Toa submission point 166.1 seeking a new appendix, the parts of the Ngāti Toa submission point 166.17 seeking new rules/methods and the submissions on Methods 3.M.4 and 3.M.6 (KiwiRail 873.3 and Trustpower Limited 1201.4 and 1201.5) are assessed under each of the relevant submitters.

Te Ātiawa have further submitted on all submissions on provisions discussed in this section. For some of the provisions, such as Policy 3.1.2, Te Ātiawa seek that the provision as notified be allowed, and that some amendments be allowed and others disallowed. Clearly this provides a conflict in the outcomes sought and Te Ātiawa may clarify at the Hearing. In all instances, Te Ātiawa only provides common reasons to its further submissions on all the submission points of the submitters and the reasons may not be specific to the applicable provision.

#### Friends

Friends (point 716.21) seek retention of Policy 3.1.2 as notified and state the Policy is supported as its reason.

#### Ngāi Tahu

In its submission point 1189.19 seeking retention of the Policy 3.1.2 as notified, Ngāi Tahu advise that in its experience, early consultation is the best way to identify issues and solutions at an early stage of development.

In its submission point 1189.20, Ngāi Tahu seek the addition of a new policy as follows, "***The Council will consult with Tangata Whenua iwi on applications that may have an impact on their relationship with land, water, wāhi tapu or wāhi taonga, or otherwise on their cultural values***". The reason given for the new policy sought, is to clarify that the Council also has a responsibility to consult with iwi. And, whilst this is implicit in the framework of objectives and policies in the proposed plan, a policy specifically about this will make this explicit.

The submission point 1189.20 of Ngāi Tahu received four further submissions, three in support from Horticulture NZ, Port Marlborough and Te Ātiawa and one in opposition from Federated Farmers. Port Marlborough and Horticulture NZ consider it appropriate to consult with iwi but Port Marlborough thinks it is necessary to have more certainty about when this occurs. Federated Farmers are concerned this potentially imposes a significant and uncertain obligation on the Council. Further, it could have significant implications for consent applications and may result in all iwi having to be consulted on all applications, which would impose significant cost and uncertainty on applications for unclear benefits.

In my view, the concerns of Ngāi Tahu are addressed through Methods 3.M.2 and 3.M.4, and the requirement under the statutory acknowledgements for a summary of all resource consent applications lodged with the Council to be provided to iwi prior to the section 95 decision whether to notify the application being made.

### KiwiRail

In its submission point 873.2, KiwiRail seeks retention of Policy 3.1.2 as notified, however the reason provided suggests some concerns that there is no scale provided for, implying that all resource consent applicants are expected to consult with iwi. As the relief sought is explicit that Policy 3.1.2 should be retained as notified, I have made no further assessment.

In its submission point 873.3, KiwiRail seek the retention of Method 3.M.4 as notified.

Both of KiwiRail's submission points received submissions in support from Te Ātiawa and NZTA.

### Horticulture NZ

In its submission (point 769.4) Horticulture NZ seeks amendment to Policy 3.1.2 as follows, "~~An applicant will be expected~~ **is encouraged** to consult early in the development of a proposal **with iwi in the development of (for resource consent or plan change) where the scale and significance of the activity will impact on so that cultural values of Marlborough's tangata whenua iwi can be taken into account**". The reasons given for the amendments sought are that the RMA does not require consultation with iwi and in some cases it is not necessary. In the view of Horticulture NZ, an assessment of effects needs to address cultural matters but how an applicant does that should not be prescribed in the MEP, and is related to scale and significance of effects.

The submission of Horticulture NZ on Policy 3.1.2 received two further submissions in opposition, they are from Ngāi Tahu and Te Ātiawa.

### Federated Farmers

In its submission (point 425.5) Federated Farmers seeks that Policy 3.1.2 is combined with Policy 3.1.4. Further relief is addressed in relation to Policy 3.1.4, and will be separately assessed elsewhere in this report. However, the outcome that is sought by Federated Farmers through the combination of the two policies, effectively removes all reference to consultation with iwi. It also adds an additional matter for iwi to cover in their iwi management plans regarding the inclusion of information useful to applicants. As it stands, Federated Farmers view Policy 3.1.2 as overly onerous and inefficient.

The submission of Federated Farmers received three further submissions in opposition, from Ngāi Tahu, Ngāti Rārua and Te Ātiawa, and one further submission in support from Pernod Ricard. The reasons for the further submission of Ngāti Rārua are generic across all of the submission points of Federated Farmers, that is not to say they are not relevant but they are not specific to point 425.5. Ngāi Tahu opposes this submission point as they are of the view that Policy 3.1.2 and Policy 3.1.4 are discrete matters that are appropriately provided for in separate policies. Pernod Ricard supports the submission however, the reason is ambiguous and requires an assessment of the Pernod Ricard submission on the MEP, consideration of the whether the decisions sought by Federated Farmers achieve the purpose of the RMA and subsequently a determination by the reader as to whether that assessment and consideration equates to Pernod Ricard indeed being in support of Federated Farmers' submission point 425.5.

### Oil Companies

In its submission (point 1004.1) the Oil Companies seek amendments to Policy 3.1.2 as follows, "~~An applicant will be expected~~ **is encouraged** to consult early in the development of a proposal (for resource consent or plan change) **that may affect iwi** so that cultural values of Marlborough's tangata whenua iwi can be taken into account".

The Oil Companies also seek amendments to the explanation to Policy 3.1.2 as follows, "~~Only Marlborough's tangata whenua iwi are able to provide advice on how a proposal may impact on cultural heritage, in particular can identify their relationship and that of their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga. This means that iwi are in the best position to determine whether a proposal will affect areas of significance for iwi. It is therefore important beneficial that for consultation with iwi to occurs early in the planning of a development (either by resource consent or plan change) to ensure enable potential impacts to be are appropriately identified and addressed~~".

The reason given for the amendments sought are that an applicant should not be required to consult with iwi on every application for resource consent. As recognised in Policy 3.1.3, it is the Council that needs to recognise and provide for the relationship of Maori with their ancestral lands, water, sites, waahi tapu and

other taonga. This may oblige applicants to consider such matters and values in their applications, and early consultation with iwi may be the most appropriate way of doing so, but it does not require an applicant to consult during the development of every and any proposal. The policy appears to represent a contracting out of the Council's functions with regard to iwi in that it seeks to impose the onus on iwi and the applicant, rather than the Council and iwi, to establish the circumstances in which a proposal may affect iwi. Although iwi are likely to be able to provide an assessment, which may document mana whenua cultural values, interests and associations with an area or natural resource, such assessments are not determinations as to whether a proposal will affect an area of significance. Rather, they are generally seen as expert advice on how a proposal might impact on cultural heritage. The Council is then able to take that expertise into account, but unless decision making functions have been transferred it is Council, not Iwi, that makes the final decision. This needs to be recognized in the explanation, which as currently worded appears to read as if iwi is the decision maker.

Further, the Oil Companies seek either via a new policy or method, a process whereby it can be determined with certainty what is likely to be of significance to iwi, that identifies who should be consulted and which establishes some considerations of engagement expectations relating to such matters as contact and response times, information sharing protocols and cost recovery by iwi.

In the absence of any specific new provisions from the submitter to assess, it is my view that methods 3.M.2 regarding statutory acknowledgements, 3.M.3 regarding iwi management plans, 3.M.4 regarding consultation and 3.M.6 regarding cultural impact assessment/cultural value reports all provide MEP users with guidance as to the various ways in which they can ascertain "*what is likely to be of significance to iwi*" and the relevant iwi to approach for consultation. In my view, it would not be appropriate for the MEP to have provisions regarding engagement expectations, such as contact and response times, information sharing protocols and cost recovery by iwi, as those expectations would be a matter between the relevant iwi and the applicant for a particular proposal.

The submission of the Oil Companies received four further submissions. In opposition to the submission were Te Ātiawa and Heritage NZ, and in support were Horticulture NZ and Port Marlborough. Port Marlborough agrees that not all proposals affect iwi and therefore consultation may not always be necessary, and Horticulture NZ supports encouraging instead of expecting consultation. Heritage NZ views consultation as an essential part of any development that may affect tangata whenua values.

#### Ravensdown Limited

In its submission (point 1090.2) Ravensdown Limited seeks that Policy 3.1.2 is amended so that it only applies to plan changes. The reason given is that the RMA does not require consultation with any party when preparing a resource consent application, and there may be occasions when consultation is not necessary or possible.

The submission of Ravensdown Limited received one further submission in opposition from Te Ātiawa, and one further submission in support from Federated Farmers. The reason for the further submission of Federated Farmers was that it supports consistency with the RMA.

#### Trustpower Limited

In its submission point 1201.2, Trustpower Limited seeks amendment to Policy 3.1.2 as follows, "*An applicant will be ~~expected~~ encouraged to consult early in the development of a proposal (for resource consent or plan change) so that cultural values of Marlborough's tangata whenua iwi can be taken into account*". The reason given for the amendment sought is that there is no obligation for an applicant to consult under the RMA, however it is done as best practice. The submission point 1201.2 of Trustpower Limited received one further submission in opposition from Te Ātiawa.

In its submission point 1201.4, Trustpower Limited seeks the deletion of Method 3.M.4. The reason given for the removal of this Method from the MEP is that the RMA does not provide a means to compel an applicant to obtain a cultural impact assessment, and it is not for a processing planner to undertake consultation as suggested in the second paragraph of the Method. The submission point 1201.4 of Trustpower Limited received one further submission in opposition from Te Ātiawa, and one further submission in support from Horticulture NZ. Horticulture NZ supports the amendment sought by Trustpower Limited to 3.M.4 as it is consistent with the changes sought by Horticulture NZ to Policy 3.1.2.

Method 3.M.4 clearly states consultation may result in a cultural impact assessment being required, the Method does not compel an applicant to obtain one as suggested by the submitter. In my view, it is entirely appropriate for a Council officer to engage in consultation with iwi to better understand the effects of an application if there is an indication that this would be beneficial. It is likely that consultation of this nature would assist the Council in determining if an iwi authority was an affected party in relation to statutory acknowledgements and is therefore consistent with Method 3.M.2.

In its submission point 1201.5, Trustpower Limited seeks the deletion of Method 3.M.6. The reason given for the removal of this Method from the MEP is that it does not actually specify a method of implementation to achieve the objectives and policies – rather it simply provides an explanation of what a cultural impact assessment is and why/how they are obtained. The submission received one further submission in opposition from Te Ātiawa.

While this Method may be less directive and more explanatory in nature, in my view it is not disconnected from the objectives and policies. A cultural impact assessment may be a method in which an applicant and iwi respond to Policy 3.1.2, and a cultural impact assessment may be included in an application to assist decision makers in considering the matters set out in Policy 3.1.3. Cultural impact assessments are referenced in Method 3.M.4, which also links back to Policy 3.1.2. These policies and methods assist in achieving, in particular, Objectives 3.2 and 3.3.

#### Ngāti Toa

The Ngāti Toa submission point 166.1 covers four matters, one of which relates to culturally significant sites. There are three further submitters on submission point 166.1, all may be relevant to this part of that submission.

Ngāti Toa seek a new appendix and overlay that includes sites, areas and/or habitats that are culturally significant. The purpose of this would be to ensure timely engagement between iwi, stakeholders and the Council. Ngāti Toa state that the new appendix/overlay should have a caveat that not all information has been disclosed by iwi and the appendix/overlay is only for starting dialogue with appropriate groups.

The relevant part of submission point 166.1 received three further submissions from Federated Farmers, Port Marlborough and Te Ātiawa. Federated Farmers support mapping sites where they are genuine cultural sites but seek that any appendix of this nature go through a full consultation process with landowners. Port Marlborough supports the appendix/overlay in principle but notes the submitter has not identified the culturally significant sites in its submission.

In my view, the concerns of Ngāi Toa are addressed to an extent through method 3.M.2 as statutory acknowledgements recognise the particular cultural, spiritual, historical and traditional association of an iwi with the identified site/area. I acknowledge, however, that this does not cover all potential sites, areas or habitats of significance. The Council is supportive of the inclusion of sites of significance to iwi in the MEP and sought to facilitate this through the IWG process. For a number of reasons this mapping did not eventuate, including some iwi not wishing to have sites identified in the MEP, a matter recognised in the submission of Ngāti Toa.

My recommendation, should sites of significance be explicitly added to the MEP, is that they are added as a variation or plan change as I would be concerned about adding sites without consultation with all iwi and landowners.

In the submission of Ngāti Toa under point 166.17 there are three parts relevant to Chapter 3. One of these parts seeks the addition of specific rules and methods to require resource applicants to consult with iwi in certain areas.

The relevant part of submission point 166.17 received three further submissions from Federated Farmers, Port Marlborough and Te Ātiawa. Federated Farmers supports the submission, however the reason given would suggest that it actually opposes this part of the submission. Federated Farmers states that the requirement to consult with iwi is already in the RMA and does not need duplication in the MEP. Port Marlborough opposes the submission and identifies in its reasons that the submitter has not identified the sites/areas where applicants are required to consult with iwi.

In my view, the concerns of Ngāi Toa are appropriately addressed through Policy 3.1.2 and Method 3.M.2. This matter is considered through provisions in Volume 1 of the MEP and, in my view, would not be suited to

the addition of a rule in Volume 2. Although the specific wording of a proposed rule has not been provided, the text in the submission stating "*consult with iwi in certain areas*" does create uncertainty in the context of a rule due to the lack of specificity regarding the areas.

Another part of the submission of Ngāti Toa under point 166.17 seeks the addition of permitted activity rules for kaitiakitanga in all zones. This is to allow for Māori to have a relationship with their culture and traditions and their lands, waters, sites, waahi tapu and other taonga.

The relevant part of submission point 166.17 received three further submissions from Federated Farmers, Port Marlborough and Te Ātiawa. Federated Farmers supports the submission and in principle agrees with the principle of kaitiakitanga. Port Marlborough opposes the submission and states kaitiakitanga is not considered to be a use of natural and physical resources.

In my view, kaitiakitanga as an activity would not be appropriate to add as an additional rule to the MEP. As reflected in the introductory section of Chapter 3, kaitiakitanga is not able to be definitively described as an "activity", therefore this would create significant uncertainty as to what such a rule would permit. It is also likely that many of the activities practiced through kaitiakitanga do not require any regulation at all, so potentially an explicit permitted activity may lead to unintended restrictions on kaitiakitanga, for example the application of the general standards that apply to all permitted activities within each zone chapter of the MEP. The objectives, policies and methods of Chapter 3 have been developed with the IWG to respond to Issue 3B, and in my view, it would be more appropriate to strengthen those provisions, if it is necessary, rather than add permitted activity rules for kaitiakitanga to the MEP.

#### Assessment of all submissions on Policy 3.1.2

Friends, Ngāi Tahu and KiwiRail all seek to retain the Policy as notified. Federated Farmers in essence seek to delete the Policy. The remaining four submitters seek amendments to Policy 3.1.2, with the thrust of the submissions being that the Policy should be changed from consultation being "*expected*" to consultation being "*encouraged*". But also seeking to remove the reference to consultation being "*early*", limit the Policy to plan changes only and only "*encourage*" consultation "*where the scale and significance of the activity will impact on cultural values*".

In my view, the key matter for the Panel to consider is whether applicants can meet the requirements of the RMA without early consultation with iwi. I appreciate the RMA does not require consultation, however it does require an application for a resource consent to include an assessment of the activity against the matters set out in Part 2, and any relevant provisions of an RPS or Plan, including any relevant objectives, policies, or rules. An assessment of the activity's effects on the environment must also address any effect on the community, including any cultural effects, and any effect on natural and physical resources having spiritual, cultural value or other special value, for present or future generations. In simple terms, the conclusion of the IWG was that applicants could not meet the requirements of Schedule 4 in the RMA unless they consulted with iwi before or during the preparation of the assessment. This is clearly shown through the Issues identified by iwi in Chapter 3, which Policy 3.1.2 is responding to. It is acknowledged that the Policy is an ambitious directive, however in the development of the provision the Council supported the strength of this Policy sought by iwi.

The submissions, which seek to limit the consultation to those applications that will affect iwi values, somewhat demonstrate the concern of the iwi and the intent behind the Policy – how does an applicant know if an activity will impact iwi values unless they ask them? Clearly from the content of some of the submissions, there is a view that not all applications will require consultation and therefore there should be a threshold of some nature related to the scope/type of activity. From a planning perspective I find this concept problematic in terms of how you would determine that threshold and draft it in policy but, aside from that, without examples of what type of activities submitters have in mind, I am unable to assess this matter any further.

#### Recommendation

Subject to further discussion at the hearing from all the submitters on the matter of whether Policy 3.1.2. should *expect* or *encourage* consultation, and associated matters raised in submissions, at this time, it is my recommendation that the Friends **submission point 716.21**, Ngai Tahu **submission point 1189.19** and Kiwirail **submission point 873.2** are **accepted**, and that the Federated Farmers **submission point 425.5**, Horticulture NZ **submission point 769.4**, Oil Companies **submission point 1004.1**, Ravensdown Limited

**submission point 1090.2** and Trustpower Limited **submission point 1201.2** are rejected. Therefore, I recommend Policy 3.1.2 and its explanation are retained as notified.

That Ngāi Tahu **submission point 1189.20** and Ngāti Toa **submission points 166.1 and 166.17** are rejected.

With regards to Method 3.M.4, that KiwiRail **submission point 873.3** is accepted and that Trustpower Limited **submission point 1201.4** is rejected. And, with regards to Method 3.M.6, that Trustpower Limited **submission point 1201.5** is rejected.

## Iwi management plans

### Submissions and Assessment

Policy 3.1.4, which is about encouraging iwi to develop iwi management plans, has attracted seven submissions, three (Friends 716.23, Ngāi Tahu 1189.22 and Fulton Hogan 717.9) seek retention of the provision as notified and four (Federated Farmers 425.5, Irrigation NZ 778.1, Heritage NZ 768.11 and Ngāti Toa 166.14) either oppose or support Policy 3.1.4 subject to amendment.

Policy 3.1.5, which is about ensuring iwi management plans are taken into account in decision making processes, has attracted five submissions, two (Friends 716.24 and Trustpower Limited 1201.8) seek retention of the provision as notified and three (Federated Farmers 425.6, Irrigation NZ 778.2, and Ngāi Tahu 1189.23) support Policy 3.1.5 subject to amendment.

Method 3.M.3, which is about consideration of iwi management plans, has attracted two submissions (Irrigation NZ 778.3 and Heritage NZ 768.12) in support, which seek retention of the provision subject to amendment.

Te Ātiawa have further submitted on all submissions on provisions discussed in this section. For some of the provisions, such as Policy 3.1.4, Te Ātiawa seek that the provision as notified be allowed, and that some amendments be allowed and others disallowed. Clearly this provides a conflict in the outcomes sought and Te Ātiawa may clarify at the Hearing. In all instances, Te Ātiawa only provides common reasons for its further submissions on all the submission points of the submitters and the reasons may not be specific to the applicable provision.

#### Friends

Friends (points 716.23 and 716.24) seek retention of the both Policy 3.1.4 and 3.1.5 as notified and state the policies are supported as its reason.

#### Trustpower Limited

Trustpower Limited (point 1201.8) seek retention of the Policy 3.1.5 as notified and state the Policy is consistent with sections 60 and 74 of the RMA as its reason.

#### Ngāi Tahu

In its submission (point 1189.22) seeking retention of the Policy 3.1.4 as notified, Ngāi Tahu states that iwi management plans are essential tools to the management of natural and physical resources. The submission of Ngāi Tahu on Policy 3.1.4 received one further submission in support from Te Ātiawa.

In its submission (point 1189.23) Ngāi Tahu seeks amendment to Policy 3.1.5 as follows, "*Ensure iwi management plans are ~~taken into account~~ **given particular regard to** in resource management decision making processes". The reason for the proposed amendment is that the Kaikoura Iwi Management Plan is comprehensive, and provides insight and detail to inform resource management processes. The proposed amendment recognises that the Iwi Management Plan is an expression of kaitiakitanga, as provided for by s7(a) of the RMA.*

The submission of Ngāi Tahu on Policy 3.1.5 received two further submissions, one in opposition from Trustpower Limited and one in support from Te Ātiawa. Trustpower opposes the submitter's amendment to Policy 3.1.5 as Section 104 of the RMA requires "*regard*" be given to other matters, not "*particular regard*".

Section 104 states "...*the consent authority must, subject to Part 2, have regard to*...". Part 2, section 7 lists the matters (a) to (j) to have "*particular regard to*", consideration of an application under section 104 is subject to this, and has to have "*regard*" to the matters listed in section 104 (a) to (c). Therefore, I do not share Trustpower Limited's interpretation in the context of the submission from Ngāi Tahu, which reasoned iwi management plans link directly to section 7, rather than "other matters" in section 104(1)(c).

The explanation to Policy 3.1.5, in my view, makes it clear that iwi management plans are considered by the Council as an "other matter" under section 104(1)(c), rather than a matter to be given particular regard to relative to s7(a). On the basis that the Policy, including its explanation, is a meaningful outcome of consultation through the IWG process and accurately reflects the Council's view of iwi management plans, I have not recommended any amendments at this time.

#### Fulton Hogan

In its submission (point 717.9) Fulton Hogan seeks retention of Policy 3.1.4 as notified, however the reason provided suggests that they hold the view that iwi management plans are required through this policy, which is not the case. In the reason for the submission it discusses the link to Policy 3.1.3 and the maintenance or improvement of mauri potentially requiring input from someone with expertise in tikanga Māori. This then leads them to effectively state that they support the Policy in its requirement for iwi to develop iwi management plans to provide certainty for resource consent applicants. As the relief sought was explicit that the Policy should be retained as notified, I have made no further assessment. However, it is noted that the matter of iwi management plans being "*required*" as opposed to "*encouraged*" is raised and assessed in other submissions on Policy 3.1.4.

#### Federated Farmers

In its submission point 425.4, Federated Farmers seeks amendment to Policy 3.1.4 through the addition of a new part as follows, "*(f) background information for large scale resource consent and plan change applicants, so that cultural values of Marlborough's tangata whenua iwi can be taken into account in the preparation of an application*". In the reasons given for the amendments sought, Federated Farmers state it supports the encouragement this policy provides to the development of iwi management plans but is of the view that Policy 3.1.4 and Policy 3.1.2 should be combined.

In combining the two policies and amending the outcome, Federated Farmers effectively seeks the deletion of the policy requiring early consultation by the applicant (Policy 3.1.2) and replaces it with an additional matter in Policy 3.1.4 for iwi management plans to provide background information for applicants. In my view, the two policies seek to achieve different outcomes and involve different parties, Policy 3.1.2 is about the relationship between iwi and applicants, and Policy 3.1.4 is about the relationship between iwi and the Council. In addition, I am unclear how iwi would foresee what "*large scale resource consent and plan change*" applications may be developed in the future, and therefore what "*background information*" to include in their iwi management plans.

The submission of Federated Farmers on Policy 3.1.4 received three further submissions, two in opposition from Ngāti Rārua and Te Ātiawa, and one further submission in support from Pernod Ricard. The reasons for the further submission of Ngāti Rārua are generic across all of the submission points of Federated Farmers, that is not to say they are not relevant but they are not specific to point 425.4. Pernod Ricard supports the submission however, the reason is ambiguous and requires an assessment of the Pernod Ricard submission on the MEP, consideration of the whether the decisions sought by Federated Farmers achieve the purpose of the RMA and subsequently a determination by the reader as to whether that assessment and consideration equates to Pernod Ricard indeed being in support of Federated Farmers' submission point 425.4.

In its submission point 425.6, Federated Farmers seek to amend Policy 3.1.5 as follows, "*Ensure iwi management plans are taken into account in resource management decision making processes **with regards to the preparation of a regional policy statement, or regional and district plans***". In the view of Federated Farmers, the Policy is not clear whether it applies to decision making on resource consents, and the amendment sought is for clarity, and this is not required by the RMA.



In my view, the wording of the Policy is not limiting, and the text of the explanation I believe is clear that the Policy does apply to decision making on resource consent applications.

The submission of Federated Farmers on Policy 3.1.5 received two further submissions in opposition, from Ngāti Rārua and Te Ātiawa, and one further submission in support from Pernod Ricard. The reasons for the further submission of Ngāti Rārua was generic across all of the submission points of Federated Farmers, that is not to say they were not relevant but they were not specific to point 425.6. However, the reason is ambiguous and requires an assessment of the Pernod Ricard submission on the MEP, consideration of the whether the decisions sought by Federated Farmers achieve the purpose of the RMA and subsequently a determination by the reader as to whether that assessment and consideration equates to Pernod Ricard indeed being in support of Federated Farmers' submission point 425.6.

#### Irrigation NZ

In its submission point 778.1, Irrigation NZ seek amendment to the opening statement of Policy 3.1.4 as follows, "~~Encourage~~ **Require** iwi to develop iwi management plans that contain.". The reason given for the amendment sought is that iwi management plans are important tools that can assist and provide more certainty for applicants and protect iwi values.

As the RMA does not require iwi to develop iwi management plans, in my view it is a challenging proposition to suggest the MEP should. Besides the wider issue of whether it is fundamentally appropriate for the Council to make such an imposition on iwi when the RMA does not, it would not seem reasonable to take such a position without addressing funding and resourcing issues. Iwi management plans also may include matters unrelated to resource management, there is no statutory requirement for plans to be anything other than what an iwi want them to be.

The submission of Irrigation NZ on Policy 3.1.4 received one further submissions in opposition from Te Ātiawa.

With regards to Irrigation NZ's submission points 778.2 and 778.3, it has been inferred that the submitter supports Policy 3.1.5 and Method 3.M.3 as Irrigation NZ does not state explicitly state its position in its submission. The relief sought by Irrigation NZ only relates to Policy 3.1.4, which is addressed above, so the inference of support has been made from the reason supplied. It is also noted that Irrigation NZ identify Method 3.M.2 in its submission but I believe it is intended to reference Method 3.M.3 as that is the one relating to iwi management plans.

The submission of Irrigation NZ on Policy 3.1.5 and Method 3.M.3 received two further submissions, one in opposition from Te Ātiawa, and one in support from Pernod Ricard. Pernod Ricard further submitted in support of the submission and seek that it be allowed. However, the reason is ambiguous and requires an assessment of the Pernod Ricard submission on the MEP, consideration of the whether the decisions sought by Irrigation NZ achieve the purpose of the RMA and subsequently a determination by the reader as to whether that assessment and consideration equates to Pernod Ricard indeed being in support of Irrigation NZ's submission points 778.2 and 778.3.

#### Heritage NZ

In its submission point 768.11, Heritage NZ seek amendment to part (c) of Policy 3.1.4 as follows, "*(c) sites, **places, areas and landscapes** of historic or cultural significance*.". The reason given for the amendment sought is that iwi management plans are an important means for identifying sites of significance to Māori, and Heritage NZ supports their promotion. However, in developing iwi management plans, iwi should be encouraged to identify the range of heritage resources of historic or cultural significance that are referenced throughout the rest of the MEP. This will facilitate protection.

In the context of Policy 3.1.4 as written, i.e. as an encouragement policy, I believe the requested amendments are relevant should the Panel consider them appropriate. I note there are no further submissions in opposition to the amendments sought by Heritage NZ. There is one further submission in support from Te Ātiawa.

With regards to Heritage NZ's submission point 768.12, the submitter seeks the following bullet point be added to Method 3.M.3, "*assist the identification of heritage resources for inclusion in the Marlborough Environment Plan and Council maps*". Heritage NZ state the reason for its submission on 3.M.3 is as for Policy 3.1.4.

The submission of Heritage NZ on Method 3.M.3 received two further submissions in support, from Te Ātiawa and Port Marlborough. Port Marlborough's reason for its support is that, in its view, the relief sought will assist in providing certainty to resource users.

In my view, the addition of a bullet point stating "*assist the identification of heritage resources*" would be not be inappropriate but I do not recommend relating this to the MEP and the maps in the manner sought by Heritage NZ. The Council is supportive of the inclusion of sites of significance to iwi in the maps of the MEP and sought to facilitate this through the IWG process. For a number of reasons this mapping did not eventuate, including some iwi not wishing to have sites identified in the MEP. My recommendation, should the mapping of sites of significance be added to the MEP, is that it is done as a variation or plan change as I would be concerned about the addition of sites without consulting with all iwi and landowners.

### Ngāti Toa

In its submission (point 166.14) Ngāti Toa seek amendment to the opening statement of Policy 3.1.4 as follows, "~~Encourage~~ **Support** *iwi to develop iwi management plans that contain.*". The reason given for the amendment sought is that iwi authorities are under resourced and require capacity to fulfil these duties and the amendment sought will allow iwi to build capability and capacity in this space. Further, it will ultimately help the Council meets its requirements and so it should have resource dedicated for it.

I believe that the proposed amendment is likely to set up an expectation that would not met with regards to funding and resourcing issues. In my view, the extent to which the Council is committed to resourcing matters arising out of Chapter 3 are found within the Methods, and they do not extend to resourcing the development of iwi management plans. The provision of resourcing would likely be either a staffing matter and/or a Long Term Plan/Annual Plan matter, and decisions regarding both of these are beyond the MEP.

The submission of Ngāti Toa on Policy 3.1.4 received one further submission in support from Te Ātiawa.

### Recommendation

Subject to further discussion at the hearing from all the submitters on the matter of whether Policy 3.1.4. should *encourage, require or support* the development of iwi management plans, at this time, it is my recommendation that the Friends **submission point 716.23**, Ngai Tahu **submission point 1189.22** and Fulton Hogan **submission point 717.9** are **accepted in part** to the extent that the parts of the Policy not amended below are retained as notified. And that the Irrigation NZ **submission point 778.1**, Federated Farmers **submission point 425.4** and Ngāti Toa **submission point 116.14** are **rejected**.

That the Heritage NZ **submission point 768.11** is **accepted** and part (c) of Policy 3.1.4 is amended as follows:

*"(c) sites, **places, areas and landscapes** of historic or cultural significance,".*

It is my recommendation that the Friends **submission point 716.24**, the Irrigation NZ **submission point 778.2** and the Trustpower Limited **submission point 1201.8** are **accepted**. And that the Ngai Tahu **submission point 1189.23** and Federated Farmers **submission point 425.6** are **rejected**. Therefore, I recommend Policy 3.1.5 and its explanation are retained as notified.

That the Heritage NZ **submission point 768.12** is **accepted in part** and the bullet point, "*assist the identification of heritage resources*", is added to Method 3.M.3, and that the Irrigation NZ **submission point 778.3** **accepted in part** to the extent that the parts of the Method not amended are retained as notified.

## Matter 6 - Resource management decision making

### Iwi involvement in decision making

#### Submissions and Assessment

Objective 3.5 has attracted three submissions, two (Heritage NZ 768.9 and Friends 716.19) seek retention of the provision as notified and one (Ngāi Tahu 1189.17) supports the provision subject to amendment.

Ngāi Tahu seeks the following amendments, "*Resource management decision making processes **that involve Marlborough's Tangata Whenua iwi, and give particular consideration to recognise and reflect the cultural and spiritual values of Marlborough's tangata whenua iwi, and their relationship to lands, water, waahi tapu and waahi taonga***". The reasons given for the amendments requested are that, based on the explanation to the Objective, the amendments provide greater clarity to plan users and on the outcome sought through this Objective. And, that the wording '*involve Marlborough's Tangata Whenua iwi*' has been proposed as without their involvement, it will be difficult to give consideration to/recognise and reflect their cultural values. And finally, the wording on their relationship with lands and water is also included as many key decisions will relate to s6(e) matters which will require the insight, views, and guidance of iwi.

With regards to the addition of the words "*and their relationship to lands, water, waahi tapu and waahi taonga*", I am comfortable with this amendment, particularly as it reflects the similar wording in other Objectives.

The addition of the words "*that involve Marlborough's Tangata Whenua iwi*" may change the intent of the Objective. The Objective would change from considering iwi values in the decision making process, to having iwi involved in the decision making process. The explanation to Objective 3.5 includes discussion on iwi involvement at a plan writing level, and in the implementation/monitoring of the MEP but it does also reference ongoing involvement in decision making processes. The explanation to the Objective is somewhat ambiguous so I considered Policy 3.1.3. This Policy sets out the matters decision makers must consider, if an application is likely to affect the relationship of iwi and their culture and traditions. In this circumstance, the explanation to the Policy anticipates the involvement of a commissioner with expertise in tikanga Māori. Method 3.M.7 is about decision making processes but seems to limit iwi involvement to the Council considering the use of a commissioner with expertise in tikanga Māori.

Method 3.M.7 would not deliver on the Objective should it be amended, as the Objective would read as a more high level directive that iwi would be involved in all decision making. The section 32 report suggests that the approach in Policy 3.1.3 and Method 3.M.7 also applies to Objective 3.5 as it states "*.....depending on the circumstances a commissioner with expertise in tikanga Māori may be appointed to a committee charged with hearing and deciding an application*". After consideration of the above, I am not convinced that this part of the amendment sought is appropriate and it may establish an Objective that gives iwi greater involvement in decision making than intended.

Finally, application of the Objective changes with the proposed change in wording from "*give particular consideration to*" to "*recognise and reflect*". The existing wording seeks consideration of values, which leaves room for a determination that there may be no relevant values, however the suggested amended wording seeks that the decision making process recognise and reflect values, which seems to assume that in all circumstances there will be iwi values to recognise and reflect. It seems to be a move from an objective with discretion to one that is more absolute. Looking to the explanation for Policy 3.1.3, this also indicates iwi values will not always be affected, which suggests they need to be considered to determine that but an assumption cannot be made that values need to be recognised and reflected in every circumstance.

The submission of Ngāi Tahu received two further submissions in opposition. Federated Farmers sought clarity in the MEP regarding what iwi involvement in resource management decision making looks like in practice, and that involvement be transparent and justified. Port Marlborough supports the addition of the words "*and their relationship to lands, water, waahi tapu and waahi taonga*", as it better reflects section 6 of the RMA, however they oppose the word "*reflect*" sought in the amendments as it does not match the wording of section 6.

Te Ātiawa have further submitted on all submissions on Objective 3.5, therefore seeking that both the Objective as notified be allowed and the Objective with amendments be allowed. Clearly this provides a conflict in the outcomes sought and Te Ātiawa may clarify their position at the Hearing. In all instances Te Ātiawa only provides common reasons to its further submissions on all the submission points of the submitters and the reasons may not be specific to Objective 3.5.

## Recommendation

Based on the information currently before me, it is my recommendation that the Ngāi Tahu **submission point 1189.17 is accepted in part** and Objective 3.5 is amended as shown below. Further, the Heritage NZ **submission point 768.9** and the Friends **submission point 716.19 are accepted in part** to the extent that the parts of the Objective not amended below are retained as notified.

That Objective 3.5 is amended as follows:

*“Resource management decision making processes give particular consideration to the cultural and spiritual values of Marlborough's tangata whenua iwi, **and their relationship to lands, water, waahi tapu and waahi taonga**”.*

## Matters to ensure are considered in decision making

### Submissions and Assessment

Policy 3.1.3 has attracted six submissions, one (Friends 716.22) seeks retention of the provision as notified, two oppose in part (Trustpower Limited 1201.3 and Fulton Hogan 717.8) and three (Ngāi Tahu 1189.21, Heritage NZ 768.10 and Port Marlborough 433.2) support the provision subject to amendment.

#### Friends

Friends seek retention of the provision as notified and state the Policy is supported as its reason.

#### Trustpower Limited

Trustpower Limited seek the following amendment to (a) and (b) of Policy 3.1.3:

*“(a) **particular regard is had to the ability for tangata whenua to exercise kaitiakitanga is maintained**”, and*

*“(b) ~~mauri is maintained or improved where degraded~~ **adverse effects of activities on the integrity of mauri are avoided, remedied or mitigated**, particularly in relation to fresh and coastal waters, land and air; ...”.*

Trustpower Limited's reason for the amendments to (a) are that it better reflects section 7 of the RMA, the exercise of kaitiakitanga is only a matter to be given particular regard to – there is no statutory requirement to strictly provide for it or maintain the ability for iwi to undertake it. However, the RMA also requires resource management issues of significance to iwi to be identified, as they have been by iwi in Issues 3A to 3J, and that provisions are developed to respond those issues.

In my view, the proposed amendments to (a) would move this policy away from responding to the Issues identified by tangata whenua, particularly Issue 3B, which concerns the lack of enablement for iwi to exercise kaitiakitanga. In my view, *“...ensure...the ability...to exercise kaitiakitanga is maintained”* gives a much stronger response to the issue than *“...ensure...particular regard is had to the ability...to exercise kaitiakitanga”*.

Trustpower Limited's reason for the amendments to (b) are that it understands that the vitality of the mauri of a waterbody can change depending on the quality and flows in the waterbody. As such, there can be a direct relationship between maintaining the mauri of a river and maintaining the existing flow or water quality of a river. In Trustpower Limited's view, such an approach could conflict with other objectives of the MEP such as Objective 5.3 in Chapter 5, which seeks to enable access to reliable supplies of freshwater for primary production, commercial and industrial purposes in order to ensure Marlborough's social and economic vitality. Trustpower Limited considers that Policy 3.1.3 should be amended to focus on avoiding, remedying

or mitigating adverse effects on the overall integrity of the mauri of a waterbody and to recognise that maintaining the mauri of a waterbody does not equate to maintaining its flows, water quality or biophysical values in their existing state.

I do not agree with Trustpower Limited's concerns about conflict with other provisions. The particular example given, Objective 5.3, has policies that give effect to it that only enable water to be taken if, either it will have little or no adverse effect on water resources (which could include effects on mauri), or a minimum flow and allocation limit for the source is established in the MEP, and Policy 5.2.4 states that environmental flows will be set to protect the mauri of a waterbody. In my view, the amendments sought to (b) do not respond to Issues 3A to 3J better than the existing wording.

Trustpower Limited also seek the provision of explanatory material in the MEP that provides greater direction as to the elements that contribute to determining whether the integrity of the mauri of fresh and coastal waters, land and air is being maintained.

In the absence of any specific new provisions from the submitter to assess, it is my view that Methods 3.M.2 regarding statutory acknowledgements, 3.M.3 regarding iwi management plans, 3.M.4 regarding consultation and 3.M.6 regarding cultural impact assessments/cultural value reports, all provide MEP users with guidance as to the various ways in which they can gain a greater understanding of mauri, and therefore how to recognise whether their activity may conflict with the requirement under Policy 3.1.3 for decision makers to ensure mauri is maintained or improved where degraded.

#### Fulton Hogan Limited

In submission point 717.8, Fulton Hogan Limited seek the following amendment to (b) in the Policy:

*"(b) mauri as described in the relevant iwi management plan is maintained or improved where degraded, particularly in relation to fresh and coastal waters, land and air;"*

Fulton Hogan Limited's reason for the amendment is that Policy 3.1.3 requires decision makers to ensure *mauri is maintained and improved where degraded* and Policy 3.1.4 requires iwi to provide guidance through iwi management plans. In the submitters view, without the guidance provided by an iwi management plan, there is a lack of certainty for consent applicants as to what level of management or mitigation will satisfy Policy 3.1.3. Fulton Hogan Limited seek a tie between the requirement to maintain or improve mauri and the existence of appropriate guidance through iwi management plans.

Without doubt iwi management plans are an excellent resource for applicants in preparing their applications however, despite the interpretation made by the submitter, Policy 3.1.4 does not require iwi to develop iwi management plans and neither does the RMA. If an iwi does not have a plan this should not negate the need for decision makers, and applicants, to ensure mauri is maintained or improved as intended by Policy 3.1.3 as written. Iwi management plans are important documents but they do not replace the need for consultation between parties where it is appropriate. The expectation set out in Policy 3.1.2 that applicants will consult with iwi early in the development of a proposal should assist in providing the certainty referenced in Fulton Hogan Limited's submission. It enables an applicant to perhaps modify their proposal to ensure that mauri is maintained or improved.

#### Ngāi Tahu

In its submission (point 118.21) Ngāi Tahu seek the following amendment to the opening sentence of Policy 3.1.3:

*"Where an application for resource consent or plan change is likely to affect the relationship of Marlborough's tangata whenua iwi and their culture and traditions, decision makers shall **consult with, and notify resource consent applications to iwi, and ensure that**."*

The reason given in the submission of Ngāi Tahu is that the Policy does not provide any indication of the methods that will be used to achieve the intent of the Policy. In the submitters view, consultation and notification of resource consents is implicit in this Policy, but making it explicit provides greater direction in terms of understanding how the Policy will be implemented.

The submission of Ngāi Tahu is opposed by Federated Farmers and Port Marlborough, and both seek that point 1189.21 not be allowed. In Federated Farmers' view, it is unclear how the proposed amendment will

relate to small resource consents that might be required for farming activities, and that the amendment should be limited to large scale resource consent or plan change applicants. Port Marlborough opposes the amendment in the submission of Ngāi Tahu as it does not reflect the relief sought in its own submission.

In my view, the concerns of Ngāi Tahu are addressed through methods 3.M.2 and 3.M.4, and the requirement under the statutory acknowledgements for a summary of all resource consent applications lodged with the Council to be provided to iwi prior to the section 95 decision whether to notify the application being made.

#### Heritage NZ

In its submission (point 768.10) Heritage NZ seeks the following amendment to (e) in Policy 3.1.3:

*“(e) ~~how~~ **that traditional and cultural** Maori uses and practices relating to natural and physical resources such as mahinga maataitai, waahi tapu, papakāinga and taonga raranga ~~are to~~ **will** be recognised and provided for.”*

The reason given in the submission of Heritage NZ is that, in its view, the use of the word ‘traditional’ in (e) is too limited as it locks the particular uses and practices to a particular time and does not provide for their ongoing evolution and change. The word ‘cultural’ should be used as well. This is also in line with the language used in the RMA. The other amendments sought are for grammatical reasons.

I agree that the changes to grammar are appropriate. The addition of “*and cultural*” reflects the opening sentence of the Policy, therefore I would support the requested amendment if the Panel is of the view it would support the intent of the Policy.

#### Port Marlborough

In its submission (point 433.2) Port Marlborough seeks the following amendments to Policy 3.1.3:

*“Where an application for resource consent or plan change is likely to affect the relationship of Marlborough’s tangata whenua iwi and their culture and traditions, decision makers shall ~~ensure~~ **have regard to potential impacts on:***

- (a) the ability for tangata whenua to exercise kaitiakitanga ~~is maintained;~~*
- (b) mauri ~~is maintained or improved where degraded,~~ particularly in relation to fresh and coastal waters, land and air;*
- (c) mahinga kai and natural resources used for customary purposes ~~are maintained or enhanced and that these resources are healthy and accessible to tangata whenua;~~*
- (d) ~~for waterbodies, the elements of physical health to be assessed are:~~*
  - i. ~~aesthetic and sensory qualities, e.g. clarity, colour, natural character, smell and sustenance for indigenous flora and fauna;~~*
  - ii. ~~life-supporting capacity, ecosystem robustness and habitat richness;~~*
  - iii. ~~depth and velocity of flow (reflecting the life force of the river through its changing character, flows and fluctuations);~~*
  - iv. ~~continuity of flow from the sources of a river to its mouth at the sea;~~*
  - v. ~~wilderness and natural character;~~*
  - vi. ~~productive capacity; and~~*
  - vii. ~~fitness to support human use, including cultural uses;~~*
- (e) ~~how~~ traditional Māori uses and practices relating to natural and physical resources such as mahinga maataitai, waahi tapu, papakāinga and taonga raranga ~~are to be recognised and provided for.”~~*

The reason given for seeking the deletion of part (d) by Port Marlborough is that, in its view, it is unclear how (d) will be considered and how compliance with (d) would be demonstrated. The submitter notes that the MEP contains robust provisions for the protection of waterbodies, and (d) duplicates many of these

provisions. Port Marlborough considers that the other clauses of this policy enable effects on fresh and coastal water to be considered.

In considering the content of (d) and the submitters request, I am not clear on the advantage in moving from a more explicit to a less explicit policy to give effect to the objectives. The Policy requires decision makers to ensure matters i to vii under (d) are assessed, it does not require a resource user to demonstrate compliance with (d). This interpretation of the Policy does not make sense given the content of i to vii, i.e. how would you demonstrate compliance with the elements wilderness and natural character.

Port Marlborough is also of the view that some aspects of this policy extend beyond cultural matters, and that some of the requirements are unduly onerous and restrictive in the context of otherwise appropriate proposals for use and development within the Port and Marina Zones.

I assume this part of the reason relates to the amendments to those parts of the Policy other than (d). Policy 3.1.3 is clear in its opening sentence that it relates specifically to an application that is likely to affect the relationship of iwi and their culture and traditions. Given this context, I fail to understand the submitters view that this Policy extends beyond cultural matters. With regards to the view that some of the requirements are unduly onerous and restrictive, without further information I am unable to assess what is meant by this assertion. In my view, the amendments sought to (a), (b), (c) and (e) do not respond to the Issues 3A to 3J better than the existing wording.

Port Marlborough's submission is supported through a joint further submission by the MFA/AQNZ, however the reason for the further submission suggests it can be disregarded as the reason relates to amendments to rules applying to the marina zone.

The submission of Port Marlborough is opposed by Ngāi Tahu and Ngāti Rārua. Ngāi Tahu explains in its reason for opposing submission point 433.2, that the amendments sought may or may not be appropriate within the specific context of the Port, however the provision is to be applied to the whole region and therefore the amendments may not be appropriate. Ngāti Rārua in its further submission reason states that the amendments are "*a thinly disguised attempt to avoid regulatory oversight of cultural impacts via FEP's*". I am unclear what the acronym FEP means in the context of this submission/Policy, but hopefully Ngāti Rārua will be able to clarify this at the hearing.

#### Further Submission – Te Ātiawa

Te Ātiawa have further submitted on all submissions on Policy 3.1.3, therefore seeking that both the Policy as notified be allowed, and that some amendments be allowed and others disallowed. Clearly this provides a conflict in the outcomes sought and Te Ātiawa may clarify at the Hearing. In all instances, Te Ātiawa only provides common reasons to its further submissions on all the submission points of the submitters and the reasons may not be specific to Policy 3.1.3.

### Recommendation

That the Friends **submission point 716.22 is accepted in part** to the extent that the parts of the Policy not amended below are retained as notified.

It is my recommendation that the Ngāi Tahu **submission point 1189.21**, the Fulton Hogan **submission point 717.8**, the Trustpower Limited **submission point 1201.3** and the Port Marlborough **submission point 433.2 are rejected**.

That the Heritage NZ **submission point 768.10 is accepted** and that part (e) of Policy 3.1.3 is amended as follows:

*“(e) ~~how~~ **that traditional and cultural** Maori uses and practices relating to natural and physical resources such as mahinga maataitai, waahi tapu, papakāinga and taonga raranga ~~are to~~ **will** be recognised and provided for.”*

## Subdivision effects assessment

### Submissions and Assessment

Ngāi Tahu seeks the addition of a new policy or policies to ensure that potential effects on iwi cultural values are avoided or managed from the outset at subdivision stage. In its view, subdivision is the very start of developments and in many cases, provides the most effective opportunity to ensure that potential effects, particularly on waahi tapu, waahi taonga, mahinga kai, freshwater and coastal water, are avoided or managed.

The submission of Ngāi Tahu received three further submissions, two in support (Te Ātiawa and Port Marlborough) and one in opposition (Federated Farmers). Port Marlborough supports the submission in principle however notes the submitter has not clearly set out the provision sought. Te Ātiawa provides common reasons to its further submission on all the submission points of the submitter and the reasons may not be specific to the proposed new provisions. Federated Farmers oppose the submission on the basis that the relief sought by the submitter is already addressed through other parts of the MEP.

Discretionary activity subdivisions will go through the consenting process and be assessed against the provisions in the MEP. This assessment will include the objectives and policies in Chapter 3. Policy 3.1.3 in my view already enables a decision maker to consider the potential effects of a development on the values related to waahi tapu, waahi taonga, mahinga kai, freshwater and coastal water. I believe the scope of (b) and (e) in Policy 3.1.3, in particular, allow for this assessment. For Permitted or Controlled Activity subdivisions the proposed provisions would not apply, unless changes were also sought to the subdivision rules in Chapter 24 of Volume 2.

For subdivisions in general, the concerns Ngāi Tahu shares in its submission were not matters raised throughout the IWG consultation process, and have perhaps only once or twice, been highlighted by iwi in receipt of the summaries of subdivision applications lodged with the Council. In the absence of further information on the issue, and with the lack of specific wording to assess, it is my recommendation that the new provisions proposed are not accepted at this time.

### Recommendation

Based on the information currently before me, it is my recommendation that the Ngāi Tahu **submission point 1189.26 is rejected.**

## Relationship of Chapter 3 to other MEP provisions

### Submissions and Assessment

Totaranui Limited (point 233.34) seeks the addition of a new policy that effectively reads as follows, "*The objectives and policies of Chapter 3 apply to all other provisions in the Plan.*" The reasons Totaranui Limited seek this additional policy are that, in its view, the structure of the MEP is such that individual subject areas and territories or areas or activity types are provided with separate sets of objectives, policies and rules. This results in consideration of applications for resource consent and other resource use, development and management activities undertaken being considered with regard to a single chapter if the activity is within a definable area, subject to a definable set of policies applied specifically to that area, or that activity or resource. Policy related to the interests of Māori is given its own chapter. This results in a reliance on reference to it from the perspective of being a body of policy applicable to all activities in the district. This is however not made obvious in the MEP.

This submission attracted two further submissions, one in support from the Red Sky Trust, and one in opposition from Port Marlborough. Red Sky Trust offers no explanation for its support for submission point 233.34. In its opposition, Port Marlborough, notes a requirement for careful consideration of the wording of this policy and the implications this will have on the functionality of the MEP.

I do not agree with the submitters interpretation of the structure of the MEP. In my view the provisions of Volume 1 are not structured in such a way that a plan user should limit their consideration of objectives and policies based on the location of their activity. While the zone based chapters of Volume 2 (the rules) could



be considered in this manner, that is certainly not the case for Volume 1. The starting point for any plan user assessing their activity against the objectives and policies of the MEP is that they all could potentially apply, and then through their consideration of the provisions they will identify those that do not. Further to this, an approach has been taken overall to not cross-reference within the MEP and therefore, in my view, there would be confusion if cross-referencing was done for a single aspect of the MEP.

I also note that the following statement is made in Chapter 2 of Volume 1 under the section on Marlborough's tangata whenua iwi, "*These objectives and policies, set out in Chapter 3, are to be had regard to by those undertaking activities within the framework of the RMA*". In addition, in my view, any person assessing the effects of an activity needs to consider the proposal relative to sections 6, 7 and 8 of the RMA and therefore would be seeking out provisions in the MEP to assist them with those considerations in a local context.

## Recommendation

It is my recommendation that the Totaranui Limited **submission point 233.34 is rejected.**

## Appendix 1: Recommended decisions on decisions requested

Submission Number	Submission Point	Submitter	Volume	Chapter	Provision	Recommendation
233	34	Totaranui Limited	1	3		Reject
166	1 (part)	Ngāti Toa	1	3	3. (Principles)	Reject
166	1 (part)	Ngāti Toa	1	3	3. (Significant Sites)	Reject
166	1 (part)	Ngāti Toa	1	3	3. (River Advisory Committee)	Reject
166	16	Ngāti Toa	1	3	3.	Reject
166	17 (part)	Ngāti Toa	1	3	3. Consultation	Reject
166	17 (part)	Ngāti Toa	1	3	3. Kaitiakitanga	Reject
426	8	MFA	1	3	3.	Reject
401	8	AQNZ	1	3	3.	Reject
869	40	KCSRA	1	3	3.	Accept
710	4 (part)	Fishing Industry	1	3	3. (Fisheries)	Reject
1023	3	P Rene	1	3	3.	Reject
1186	36	Te Ātiawa	1	3	3.	Accept
1188	1 (part)	Ngāti Rārua	1	3	3. (Cultural Indicators)	Reject

Section 42A Hearings Report - Marlborough's Tangata Whenua Iwi

Submission Number	Submission Point	Submitter	Volume	Chapter	Provision	Recommendation
166	17 (part)	Ngāti Toa	1	3	3. (Cultural Indicators)	Reject
1188	1 (part)	Ngāti Rārua	1	3	3. (Kaitiakitanga)	Reject
1188	1 (part)	Ngāti Rārua	1	3	3. (Papakāinga)	Reject
1189	2	Ngāi Tahu	1	3	3.	Accept
1189	20	Ngāi Tahu	1	3	3.	Reject
1189	26	Ngāi Tahu	1	3	3.	Reject
716	5	Friends	1	3	Issue 3A	Accept
1189	3	Ngāi Tahu	1	3	Issue 3A	Accept
716	6	Friends	1	3	Issue 3B	Accept
1189	4	Ngāi Tahu	1	3	Issue 3B	Accept
716	7	Friends	1	3	Issue 3C	Accept
1189	5	Ngāi Tahu	1	3	Issue 3C	Accept
716	8	Friends	1	3	Issue 3D	Accept
1186	37	Te Ātiawa	1	3	Issue 3D	Reject
1189	6	Ngāi Tahu	1	3	Issue 3D	Accept
716	9	Friends	1	3	Issue 3E	Accept
1189	7	Ngāi Tahu	1	3	Issue 3E	Accept

Section 42A Hearings Report - Marlborough's Tangata Whenua Iwi

Submission Number	Submission Point	Submitter	Volume	Chapter	Provision	Recommendation
716	10	Friends	1	3	Issue 3F	Accept
1189	8	Ngāi Tahu	1	3	Issue 3F	Accept
716	11	Friends	1	3	Issue 3G	Accept
1189	9	Ngāi Tahu	1	3	Issue 3G	Accept
716	12	Friends	1	3	Issue 3H	Accept
1189	10	Ngāi Tahu	1	3	Issue 3H	Accept
716	13	Friends	1	3	Issue 3I	Accept
1189	11	Ngāi Tahu	1	3	Issue 3I	Accept
716	14	Friends	1	3	Issue 3J	Accept
1189	12	Ngāi Tahu	1	3	Issue 3J	Accept
716	15	Friends	1	3	Objective 3.1	Accept
768	5	Heritage NZ	1	3	Objective 3.1	Accept
1189	13	Ngāi Tahu	1	3	Objective 3.1	Accept
716	16	Friends	1	3	Objective 3.2	Accept in part
768	6	Heritage NZ	1	3	Objective 3.2	Accept in part
1189	14	Ngāi Tahu	1	3	Objective 3.2	Accept in part
1201	6	Trustpower Limited	1	3	Objective 3.2	Accept in part
716	17	Friends	1	3	Objective 3.3	Accept

Section 42A Hearings Report - Marlborough's Tangata Whenua Iwi

Submission Number	Submission Point	Submitter	Volume	Chapter	Provision	Recommendation
768	7	Heritage NZ	1	3	Objective 3.3	Accept
1189	15	Ngāi Tahu	1	3	Objective 3.3	Accept
1201	7	Trustpower Limited	1	3	Objective 3.3	Accept
166	15	Ngāti Toa	1	3	Objective 3.4	Reject
716	18	Friends	1	3	Objective 3.4	Accept
768	8	Heritage NZ	1	3	Objective 3.4	Accept
1189	16	Ngāi Tahu	1	3	Objective 3.4	Accept
716	19	Friends	1	3	Objective 3.5	Accept in part
768	9	Heritage NZ	1	3	Objective 3.5	Accept in part
1189	17	Ngāi Tahu	1	3	Objective 3.5	Accept in part
425	3	Federated Farmers	1	3	Policy 3.1.1	Reject
710	4 (part)	Fishing Industry	1	3	Policy 3.1.1	Reject
716	20	Friends	1	3	Policy 3.1.1	Accept in part
1189	18	Ngāi Tahu	1	3	Policy 3.1.1	Reject
1201	1	Trustpower Limited	1	3	Policy 3.1.1	Reject
166	1 (part)	Ngāti Toa	1	3	3. (Policy 3.1.1)	Accept in part
425	5	Federated Farmers	1	3	Policy 3.1.2	Reject
716	21	Friends	1	3	Policy 3.1.2	Accept

Section 42A Hearings Report - Marlborough's Tangata Whenua Iwi

Submission Number	Submission Point	Submitter	Volume	Chapter	Provision	Recommendation
769	4	Horticulture NZ	1	3	Policy 3.1.2	Reject
873	2	KiwiRail	1	3	Policy 3.1.2	Accept
1004	1	Oil Companies	1	3	Policy 3.1.2	Reject
1090	2	Ravensdown Limited	1	3	Policy 3.1.2	Reject
1189	19	Ngāi Tahu	1	3	Policy 3.1.2	Accept
1201	2	Trustpower Limited	1	3	Policy 3.1.2	Reject
433	2	Port Marlborough	1	3	Policy 3.1.3	Reject
716	22	Friends	1	3	Policy 3.1.3	Accept in part
717	8	Fulton Hogan Limited	1	3	Policy 3.1.3	Reject
768	10	Heritage NZ	1	3	Policy 3.1.3	Reject
1189	21	Ngāi Tahu	1	3	Policy 3.1.3	Reject
1201	3	Trustpower Limited	1	3	Policy 3.1.3	Reject
166	14	Ngāti Toa	1	3	Policy 3.1.4	Reject
425	4	Federated Farmers	1	3	Policy 3.1.4	Reject
716	23	Friends	1	3	Policy 3.1.4	Accept in part
717	9	Fulton Hogan Limited	1	3	Policy 3.1.4	Accept in part
768	11	Heritage NZ	1	3	Policy 3.1.4	Accept
778	1	Irrigation NZ	1	3	Policy 3.1.4	Reject

Section 42A Hearings Report - Marlborough's Tangata Whenua Iwi

Submission Number	Submission Point	Submitter	Volume	Chapter	Provision	Recommendation
1189	22	Ngāi Tahu	1	3	Policy 3.1.4	Accept in part
425	6	Federated Farmers	1	3	Policy 3.1.5	Reject
716	24	Friends	1	3	Policy 3.1.5	Accept
778	2	Irrigation NZ	1	3	Policy 3.1.5	Accept
1189	23	Ngāi Tahu	1	3	Policy 3.1.5	Reject
1201	8	Trustpower Limited	1	3	Policy 3.1.5	Accept
716	25	Friends	1	3	Policy 3.1.6	Reject
1189	24	Ngāi Tahu	1	3	Policy 3.1.6	Accept
425	7	Federated Farmers	1	3	Policy 3.1.7	Reject
716	26	Friends	1	3	Policy 3.1.7	Accept
1189	25	Ngāi Tahu	1	3	Policy 3.1.7	Accept
166	11	Ngāti Toa	1	3	3.M.2	Reject
166	12	Ngāti Toa	1	3	3.M.2	Accept
166	13	Ngāti Toa	1	3	3.M.2	Reject
433	3	Port Marlborough	1	3	3.M.2	Reject
778	3	Irrigation NZ	1	3	3.M.3	Accept in part
768	12	Heritage NZ	1	3	3.M.3	Accept in part
873	3	KiwiRail	1	3	3.M.4	Accept

Section 42A Hearings Report - Marlborough's Tangata Whenua Iwi

Submission Number	Submission Point	Submitter	Volume	Chapter	Provision	Recommendation
1201	4	Trustpower Limited	1	3	3.M.4	Reject
1201	5	Trustpower Limited	1	3	3.M.6	Reject
1189	118	Ngāi Tahu	2	2	2.	Reject
1189	119	Ngāi Tahu	2	2	2.	Reject
1186	120	Te Ātiawa	2	3	3.3.47.1.	Reject
1186	122	Te Ātiawa	2	4	4.1.48.	Accept
1186	128	Te Ātiawa	2	4	4.3.45.1.	Reject
446	1	Waikawa Marae Incorporated	2	5	5.1.3.	Accept
1186	129	Te Ātiawa	2	5	5.1.3.	Accept in part
1186	131	Te Ātiawa	2	5	5.3.2.1.	Reject
1186	130	Te Ātiawa	2	5	5.1.4.	Accept
1186	132	Te Ātiawa	2	5	5.3.3.1.	Reject
1186	135 (part)	Te Ātiawa	2	7	7.1.4. (Papakāinga)	Accept
1186	135 (part)	Te Ātiawa	2	7	7.1.4. (Marae)	Reject
1186	137	Te Ātiawa	2	7	7.3.3.1.	Reject
1186	141 (part)	Te Ātiawa	2	8	8.1.4. (Papakāinga)	Accept
1186	141 (part)	Te Ātiawa	2	8	8.1.4. (Marae)	Reject



Section 42A Hearings Report - Marlborough's Tangata Whenua Iwi

Submission Number	Submission Point	Submitter	Volume	Chapter	Provision	Recommendation
1186	143	Te Ātiawa	2	8	8.3.3.1.	Reject
1186	229	Te Ātiawa	4	Zone Maps	40	Reject
1186	232	Te Ātiawa	4	Zone Maps	42	Reject