

Proposed Marlborough Environment Plan

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

Addendum to Report dated 18 October 2017

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

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Introduction

This report is an addendum to the report titled “*Report on submissions and further submissions topic: Marlborough’s Tangata Whenua Iwi*” and dated 18 October 2017. Following the completion of the original report it was identified that two additional submissions should have been included but were overlooked. Both submissions relate to definitions notified in the MEP in Volume 2, Chapter 25.

This addendum report should be considered in conjunction with the report of 18 October 2017, and background, abbreviations and the like have not been repeated for this reason.

Analysis of submissions

There are two definitions in the MEP that specifically relate to the provisions relevant to the Marlborough’s Tangata Whenua Iwi topic – “*Marae Activity*” and “*Papakāinga Unit*”.

Key Matters

The submissions covered in this addendum report are appropriately considered as coming under Matter 4 identified in the parent report as “*Opportunities for development on Māori land*”.

Matter 4 - Opportunities for development on Māori land.

As discussed in the parent report, relevant provisions in Chapter 3 of Volume 1 of the MEP are given effect to through Permitted Activity rules around marae activity and papakāinga. These rules are assisted by definitions for “*Marae Activity*” and “*Papakāinga Unit*” in Volume 2, Chapter 25.

Marae Activity definition

Submissions and Assessment

The definition of “*Marae Activity*” has received one submission (Te Ātiawa 1186.216) that seeks retention of the definition subject to amendment. The submission is supported by a further submission from Elkington Whanau, however the further submission does not specifically discuss the matters raised in submission point 1186.216.

Te Ātiawa seek the following amendment to the definition of “*Marae Activity*” (strikethrough and bold) –

*“means a specific area of land where the primary purpose is the provision of a focal point for social, cultural, and economic activity for iwi, hapū or whānau. A marae may include wharenuī and hui activities; kaumātua housing, hostels and wharekai; hangi; papakāinga; whare wairua; kokiri training and tuition activities; educational facilities and activities and whare wananga; kōhanga Reo, childcare facilities and activities; recreation activities; tangihanga; urupā and burial activities; health facilities; ~~administration offices ancillary to the Marae activity;~~ **Māori commercial offices**; the retail sale of goods manufactured or grown within the Marae property; and tourist visitor services and operations.”*

The reasons given for the requested amendment are that Te Ātiawa are not clear on what is intended by the reference to economic activity in the definition, view the reference as narrow/restrictive, and show a lack of understanding of the breadth of Maori commercial interests.

The wording of the definition for Marae Activity was discussed by the IWG and it was my observation that great care was taken to try and find the right balance between a definition that gives clear guidance as to the activity anticipated to occur when operating under the Permitted Activity rules for Marae Activity, and a definition that will be too limiting due to its prescriptiveness. This is demonstrated by the phrase “*A marae may include...*” (my emphasis) in the wording of the definition. In my view, the definition tries to capture the essence of marae activity so that MEP users have a sense of what activities could be anticipated on a

marae, and part of this is about scale. References such as, “*ancillary to the Marae activity*” and “*goods manufactured or grown within the Marae property*” provide a sense of scale, in that there will be key activities that are inherent on marae, and other activities that should only occur when there is a connection with the marae. In my view, there is nothing in the definition that particularly would prevent a commercial office being on a marae, and when you look at the definition there are many instances of activities that could potentially have a commercial component, such as educational facilities, childcare facilities, recreation activities, the retail sale of goods, and tourist visitor services and operations. However, the spirit of the definition, in my view, is that commercial activities that are not particularly connected to marae activities are not specifically included as it is not intended that they be enabled through Permitted Activity rules for marae activity.

If the Panel determines that it would be appropriate to expand the definition to include “*Māori commercial offices*” as sought by the submitter, in my view, it would be preferable to add the phrase to the definition as notified, rather than use the phrase to replace any existing part of the definition. In my view, the words “*administration offices ancillary to the Marae activity*” still have value even if the additional wording sought by Te Ātiawa is added.

Recommendation

It is my recommendation that the Te Ātiawa **submission point 1186.216 is rejected**. Therefore, I recommend the definition of “*Marae Activity*” is retained as notified.

Papakāinga Unit definition

Submissions and Assessment

The definition of “*Papakāinga Unit*” has received one submission (Te Ātiawa 1186.217) that opposes the definition notified and seeks it is replaced with a different definition. The submission is supported by a further submission from Elkington Whanau, however the further submission does not specifically discuss the matters raised in submission point 1186.217.

The notified definition of “*Papakāinga Unit*” is as follows –

“means a traditional Māori settlement area on Māori land and includes activities associated with residential living”.

Te Ātiawa seek the following replacement of the definition of “*Papakāinga Unit*” –

“a self-contained residential unit, used or intended to be used for a permanent residential activity, associated with a marae or tribal housing for kaumātua”.

The reason given for the requested replacement of the notified definition is that it is “*ambiguous, archaic and incorrect*”.

The wording of the definition for Papakāinga Unit was discussed by the IWG and it was my observation that great care was taken to try and find the right balance between a definition that gives clear guidance as to the activity anticipated to occur when operating under the Permitted Activity rules for Papakāinga, and a definition that will be too limiting due to its prescriptiveness.

In my view, the definition sought by the submitter is more limiting than the notified definition as it specifies the units would be for permanent residential activity, and only for kaumātua. However, if this is more correct and less ambiguous, and given no other iwi oppose the change sought, I do not have any concerns from a planning perspective in accepting these changes to the definition. Other wording changes, with the exception of one discussed below, are also acceptable.

The one change I do not support is the omission of the words “*on Māori land*” in the submitters proposed definition. As discussed in my report of 18 October 2017, with regards to the submission of Ngāti Toa, 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 papakāinga 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 papakāinga units are not limited to Māori land (via the definition which supports the Permitted Activity), 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.

Recommendation

It is my recommendation that the Te Ātiawa **submission point 1186.217 is accepted in part** and that the definition of "*Papakāinga Unit*" notified is replaced with the following definition –

"means a self-contained residential unit on Māori land, used or intended to be used for a permanent residential activity, associated with a marae or tribal housing for kaumātua".

Appendix 1 (addendum): Recommended decisions on decisions requested

Submission Number	Submission Point	Submitter	Volume	Chapter	Provision	Recommendation
1186	216	Te Ātiawa	2	25	Definitions – Marae Activity	Reject
1186	217	Te Ātiawa	2	25	Definitions – Papakāinga Unit	Accept in part