

## Proposed Marlborough Environment Plan

### Minute of the Hearing Panel

#### Minute 42

#### E te rangatira, e Poneke Rene

1. Your submission 1023.6 sought amendment of the proposed zoning from Open Space 3 zone to Coastal Environment zone in the proposed Marlborough Environment Plan (pMEP) for a number of named islands off-shore from Rangitoto (D'Urville Island).
2. In the course of the hearing of that submission at Blenheim on 7 November, 2018 the Hearing Panel understood your prime concerns to be:
  - a. That the proposed Open Space 3 zone was in some manner, (based on your perception of Section 6(d) of the Resource Management Act 1991 (RMA) and Section 4 of the Conservation Act 1987), intended to either transfer management of the islands from the rangatiratanga of Māori owners to the Department of Conservation, or otherwise undermine the riparian rights of the Māori owners. This concern particularly centred on your wish to retain the right of access to the islands which riparian rights provided.
  - b. That the limited permitted activities in the Open Space 3 zone would in some manner inhibit or restrict the ability of the Māori owners to be able to use those islands for their own customary uses – which predominantly involved customary mahinga kai gathering practices.
3. After hearing your submissions the Hearing Panel drew attention to two matters.
4. The first matter was that Policy 9.1.4 of the pMEP states as follows:

**Policy 9.1.4 – Acknowledge that public access to land held in private ownership can only be granted by the landowner.**

Access to beaches, rivers and the high country frequently relies on landowner goodwill in allowing people to cross private land. This policy acknowledges that the Council respects the private property rights of the landowner and understands it is their prerogative to grant or refuse permission for people to cross their land.

5. The Hearing Panel stressed that the very reason for that policy being included in the pMEP was to ensure that by such a specific express policy the pMEP itself reinforces the legal reality that zoning or other provisions in RMA plans cannot affect the rights of owners to control their own lands and access to them. That policy expressly records that the Plan provisions are to protect those private rights.
6. The second matter was that the Hearing Panel members drew to your attention the fact that Open Space 3 zone permitted activities were more beneficial for protecting the environment for your islands than the Coastal Environment permitted activities were.
7. However, having heard your concerns, the Hearing Panel understood better your concerns that you felt there was a potential gap in that there was no specific provision for the customary gathering of mahinga kai by the Māori owners.
8. The Hearing Panel indicated that it would consider the issue and put to you a possible solution in the form of a Minute. At the moment the wording of the first of the permitted activities in the Open Space 3 zone provides for:

“Passive recreation”

9. After initial reflection one possibility appears to be to amend the definition of ‘passive recreation’, which at the moment reads:

**Passive or informal recreation**

means the voluntary and unstructured use of a range of recreational activities.  
Does not include any form of motorised sport.

10. One possibility to respond to your concern could be to amend that definition so it reads:

**Passive or informal recreation**

means the voluntary and unstructured use of a range of recreational activities including the customary gathering of mahinga kai. Does not include any form of motorised sport.

11. The Hearing Panel asks that you consider whether such an amendment to the definition of ‘passive recreation’ so as to include ‘the customary gathering of mahinga kai’ in the Open Space 3 zone would meet your submission request, rather than a rezoning to Coastal Environment zone for the islands listed in your submission?

12. Could you please respond in writing to the Council as to that enquiry from the Hearing Panel by the end of Friday 30 November, 2018.

Dated 15 November 2018

A handwritten signature in black ink, appearing to read 'T Hook', followed by a period.

Councillor Trevor Hook

Chair of the MEP Hearing Panel