

Environment Committee Meeting

24 November 2022

This Report relates to Item 8 in the Agenda

**“Section 32 Report –
Variation 3 - Meretoto Ship Cove”**

Proposed Marlborough Environment Plan

**Proposed Variation No. 3: Meretoto/Ship Cove (including
Motuara Island) Heritage Resource**

Report prepared by Louise Walker to fulfil the requirements of Section 32 of
the Resource Management Act 1991

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INTRODUCTION

1. This report sets out the evaluation behind the Marlborough District Council's (the Council) decision to change the proposed Marlborough Environment Plan (the pMEP) to include a new heritage resource being land and seabed at Meretoto/Ship Cove (including the island of Motuara).
2. The potential for a variation to include the site as a heritage resource in the pMEP was initiated by Heritage New Zealand Pouhere Taonga (HNZPT) entering the site into the New Zealand Heritage List/Rārangī Kōrero as a 'Historic Place Category 1' (List number 9900). The Category 1 type listing identifies sites as being of *special or outstanding historical or cultural significance or value*¹.
3. As part of HNZPT's own approval process, it undertook an assessment of the site. A summary of the assessment formed part of the information package sent to Council notifying it of the site's new status on the List. The report identified Meretoto/Ship Cove as Captain James Cook's expedition base for three of his South Pacific voyages, spending more time at this location than any other in Aotearoa/New Zealand.
4. For many years, Meretoto/Ship Cove has been recognised as a site of significance not only due to its connection with Captain Cook but also as an important area to Māori. Previously the site's importance has been recognised by the erection of pouwhenua, to mark the location, and storyboards to provide information to those visiting the area. The area identified by HNZPT for the Meretoto/Ship Cove listing is also the location of another HNZPT listing (List number 9780), identifying this site as Wahi Tupuna/Tipuna.
5. Although its significance is both recorded by HNZPT and physically marked on site, currently Meretoto/Ship Cove is not included as a heritage resource in the pMEP. This omission results in minimal protection afforded to the site, which has status of both local and national significance, under the pMEP rules. As a means to manage this shortfall, the Council seeks to include Meretoto/Ship Cove on the Heritage Resources list in Appendix 13 of the pMEP and record its position on the relevant planning maps.

SECTION 32 REQUIREMENTS

6. In notifying any variation to the Plan, the Council has a duty under Section 32 of the Resource Management Act 1991 (RMA) to evaluate a number of matters.
7. The Section 32 process of the RMA assists in ensuring that good environmental outcomes are achieved, plan provisions are targeted at achieving the purpose of the RMA by the most appropriate methods, there is sound policy analysis to base decisions and for reassessing whether the chosen provisions are necessary and appropriate once they are in use. An evaluation under Section 32 has to be carried out before the Council publicly notifies the proposed variation and

¹ www.heritage.org.nz/the-list/about-the-list

then again before making a decision on submissions received. A Section 32 evaluation must examine the extent to which each objective, policy, rule and method is the most efficient and effective and/or appropriate way to achieve the purpose of this Act. It must also take into account the benefits and costs of policies, rules, or other methods, and the risk of acting or not acting.

8. This report fulfils the requirements of section 32(5) RMA in terms of summarising the evaluation undertaken.

STRUCTURE OF THIS REPORT

9. This report is structured as follows.

Part A: Background to the request for Meretoto/Ship Cove to be included as a heritage resource and the research undertaken to support it.

Part B: A summary of the legislative framework, within which resource and environmental issues are currently managed.

Part C: An evaluation under section 32, as required under the RMA, of the actual changes to the Plan.

10. The proposed Schedule of Changes to the Plan, which sets out the proposed variation, is attached as **Appendix 1**.

PART A: BACKGROUND AND RESEARCH UNDERTAKEN

Background

11. Within the introductory text of Chapter 10, Volume 1 of the pMEP, Council outlines the importance for the maintenance and protection of heritage resources and notable trees in Marlborough. In particular, it states:

Historic heritage are the natural and human made features of the landscape that combine to give people a sense of place and are valued for providing a connection with our past... These resources collectively contribute to environmental quality and community wellbeing in many ways...

12. Appendix 13, Volume 3 of the pMEP provides a list of heritage resources that have been identified by Council as having a level of significance warranting protection. Beyond simply identifying these resources, the listed items are protected by the Heritage Resources rules², along with any other relevant provisions in the pMEP.

² General Rules, Volume 2, proposed Marlborough Environment Plan

13. By incorporating these specific heritage resources in the pMEP, Council is achieving its obligation by giving effect to the overarching requirements of Section 6 of the Resource Management Act 1991 where it has identified historic heritage as a matter of national importance at (f), as stated below.

6. *In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:*

...

(f) *the protection of historic heritage from inappropriate subdivision, use and development.*

14. On 4 March 2019 the Marlborough District Council received notification from HNZPT of the approved status of Meretoto/Ship Cove as a Category 1 Historic Place and its subsequent entry on the HNZPT List (list number 9900).

15. In order to give effect to the requirements of the RMA, as well as its own objectives and policies, Council is required to have regard to this latest inclusion.

Research and Investigation

16. The Meretoto/Ship Cove land portion of the site is comprised of a number of land parcels, all of which are zoned Open Space 3, and are held under the ownership of the Department of Conservation. The land includes the following:

- Sec 4 Blk XV Gore SD
- Sec 12 Blk XV Gore SD
- Sec 36 Blk XI Gore SD
- Sec 13 Blk XV Gore SD
- Sec 53 Blk XI Gore SD
- Sec 2 Blk XVI Gore SD
- Sec 31 Blk XII Gore SD
- Sec 7 Blk XVI Gore SD
- Sec 1 Blk XV Gore SD
- Sec 141 Queen Charlotte Sound District
- Sec 9 Blk XV Gore SD
- Sec 3 Blk XV Gore SD
- Sec 10 Blk XV Gore SD

17. The listed site also includes seabed between Meretoto/Ship Cove and Motuara, the extent of which was included in the HNZPT nomination letter and which is shown in Appendix 2.

18. The HNZPT listing also incorporates the following structures which are located at Meretoto/Ship Cove.

- 1913 Monument
- 1920 Monument

- 2006 Pouwhenua
19. HNZPT has completed an evaluation of the area which involved a thorough assessment establishing the value of the site based on a number of predetermined criteria (cultural significance, social significance etc). Accordingly, the site was deemed suitable for inclusion as a Category I status site.
 20. A summary of the assessment is available via the HNZPT website. The HNZPT assessment was considered as part of Council's investigation.
 21. Turning to Council's own statutory documents, these acknowledge the historical importance of such sites as Meretoto/Ship Cove as is exhibited by the introductory text of Chapter 10, Volume 1 of the pMEP.

Within Marlborough there are a variety of important heritage resources reflecting a rich and varied cultural history. This includes a long history of occupation by Māori and a legacy left by early exploration (e.g. Cook's visits)... (emphasis added).

22. The HNZPT site boundary also encompasses the seabed in their listing. The consequences of this area being included in the pMEP listing under the current planning framework will be considered in more detail below. However, at this stage I note the HNZPT report does not identify any specific heritage resources on the seabed.
23. Ecological consideration of the benthos may result in a different outcome, but surveys are not available for this locale and protection on the basis of sensitive benthic areas would be determined by identification as an Ecologically Significant Marine Site.
24. It is worth mentioning that HNZPT do not need to have regard to the implications of the PMEP policy framework when considering inclusion of sites as a List Entry. Further the reasoning behind HNZPT's inclusion of the seabed is well founded and logical given their mandate. In a response to Council's querying of the seabed inclusion, HNZPT's Dean Raymond clearly sets out the reasoning:

...to reflect the seabed's heritage importance as the place where Cook's ships anchored, and its archaeological potential. Under our criteria List Entry extents must have a contiguous boundary, so the land described as Pt Seabed ties together the two above ground parts of the List Entry (the Ship Cove reserve, and Motuara Island reserve). In this case, the seabed itself is of more importance than merely a space tying together two other features. Shipping anchorage sites may contain items dropped overboard by crew, or debris left over from vessel maintenance activities while in the harbour. The seabed at Meretoto/Ship's Cove may therefore contain archaeological deposits buried in the sediment, as stated in the 'Archaeological Significance or Value' statement on p. 30 of the historic place report (attached), which recognises the seabed's potential as source for heritage information: 'There is potential for investigation of the seabed to produce items relating to the European ships, their fabric and contents, as well as objects relating to Māori sea-faring activity.'³

³ Email from Dean Raymond, dated 3 March 2022.

Historical Accounts

25. The HNZPT report looked at the historical association for the site, focussing mainly on more recent history around the time Captain Cook visited the site and looking forward.
26. An additional historical account is currently being prepared by Ngāti Kuia and Ngāti Apa to document the association and occupation of Kurahaupō iwi at the site, supplementing the information made available with the HNZPT listing. This historical account was not completed when finalising of the Section 32 but a summary of the report will be made available if the variation progresses to hearing, accompanying the Section 42A report. In general, it is understood that the account will support the sites importance as both a site of significance to tangata whenua iwi and its historic importance as a heritage resource to the Marlborough region.

PART B: LEGISLATIVE FRAMEWORK

Purpose of the Resource Management Act

27. The purpose of the Resource Management Act 1991 (RMA) is to promote the sustainable management of natural and physical resources. Sustainable management means:

“managing the use, development and protection of natural and physical resources in such a way, or at a rate, which enables people and communities to provide for their social, economic and cultural well-being and for their health and safety while—

(a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and

(b) safeguarding the life-supporting capacity of air, water, soil and ecosystems; and

(c) avoiding, remedying or mitigating any adverse effects of activities on the environment.”

28. In achieving the purpose of sustainable management, the Council must have regard to a number of principles set out in the RMA. These include recognition and provision for a number of matters of national importance described in Section 6 of the RMA. The Council must also have particular regard to matters such as amenity and heritage values, kaitiakitanga, quality of the environment, and ecosystem values (Section 7) and take into account the principles of the Treaty of Waitangi (Section 8).
29. The RMA enables the use and development of resources as long as such use does not adversely affect the environment in a way that impacts the foreseeable needs of future generations, the life supporting capacity of ecosystems or other users or the environment. This is the concept of “sustainability” which the RMA promotes as its overriding purpose.

Takutai Moana (Marine and Coastal Area) – Applications

30. The coastal marine area in Meretoto/Ship Cove is subject to applications from Te Ātiawa o Te Waka-a-Māui, Te Rūnanga o Ngāti Rārua, Ngāti Toa Rangatira and Ngāti Apa ki te Ra To seeking recognition of customary interest from the Crown. Further details of these claims can be found on the www.tearawhiti.govt.nz website.

Marlborough District Council Responsibilities

31. The Marlborough District Council is a unitary authority that has the functions, powers and duties under the RMA of both a district council and a regional council. Its functions are set out in sections 30 and 31 of the RMA.
32. Under the RMA the Council is required to have regard to any entry on the HNZPT List in preparing or changing the plan.

Proposed Marlborough Environment Plan

33. The Council's unitary authority status creates an obligation to prepare a regional policy statement, coastal plan, a district plan and such other regional plans as are necessary to promote the sustainable management of natural and physical resources. Due to its unitary authority status the Council has taken the opportunity to integrate the management of the resources of all of Marlborough into one document.
34. The pMEP was publicly notified on 19 May 2016. The hearings on the Plan were held between November 2017 and April 2019 and a decision released by the Hearing Panel on 21 February 2020. The pMEP is currently under appeal with several topics, including heritage resources, having been through the mediation process. A consent order was issued by the Environment Court on Heritage Resources on 25 July 2022 resolving all but one appeal point on this topic. As appeals have been resolved policies can now have weight and rules can be treated as operative.
35. The inclusion of Meretoto/Ship Cove in the pMEP does not require amendment to or the establishment of new provisions. The variation simply seeks to make an inclusion which achieves what the existing provisions set out to accomplish.
36. The objectives and policies of the pMEP are specific when it comes to the protection of heritage resources. Objective 10.1 clearly sets this out:

Objective 10.1 – Retain and protect heritage resources that contribute to the character of Marlborough

37. Method 10.M.1 sets out how this is to be achieved in practice:

10.M.1 Identifying Marlborough's significant heritage resources and notable trees

The Council will identify significant heritage resources and notable trees within Appendix 13 of the MEP. Each individual resource or tree will be described in a schedule and included on planning maps.

Resources or notable trees identified will be those that meet the criteria in Policies 10.1.4 and 10.2.1 and/or those included on the New Zealand Heritage List/Rārangi Kōrero. Heritage resources and notable trees will be divided into the following Schedules:

Schedule 1: Category A Historic Buildings, Structures, Places, Sites and Areas

Schedule 2: Category B Historic Buildings, Structures, Places, Sites and Areas

Schedule 3: Sites and Places of Significance to Marlborough's Tangata Whenua Iwi

Schedule 4: Notable Trees

Schedule 5: HNZTPA Archaeological Site Requirements

The relative heritage value of heritage resources recognised by the New Zealand Heritage List/Rārangi Kōrero will be included in the schedule. This will assist in the application of the policies of this chapter. Assessment against the criteria will occur periodically. This will allow emerging heritage resources and notable trees to be added to the MEP, via plan change processes, on an ongoing basis. ...

38. In relation to the Meretoto/Ship Cove site proposal, the method (stated above) is determinative of the outcome. It states: *The relative heritage value of heritage resources recognised by the New Zealand Heritage List/Rārangi Kōrero will be included in the schedule. [own emphasis added]*
39. The HNZPT listing also is indicative of the status that should be applied within the pMEP framework. Policy 10.1.5 reads as follows:

Avoid adverse effects on the historic heritage values of Category A heritage resources identified in Schedule 1 of Appendix 13 and sites and places of significance to Marlborough's tangata whenua iwi identified in Schedule 3 of Appendix 13.

Schedule 1 contains Category A historic buildings and structures (or parts of buildings or structures), places, sites, monuments and plaques. Category A means they are of special or outstanding significance. This is the same meaning as Category 1 historic places in the New Zealand Heritage List / Rarangi Korero. Schedule 3 identifies Sites and Places of Significance to Marlborough's tangata whenua iwi,

Any loss or damage of, or significant change to, an item contained in Schedule 1 or 3 would result in potentially irreversible loss of historic heritage that is important in a national context. For this reason, any adverse effects on the historic heritage values of resources in Schedule 1 and 3 must be avoided. This will see a prohibited activity rule that forbids the whole or partial demolition, or removal, of a Category A resource in Schedule 1 and the destruction of a resource in Schedule 3 of Appendix 13.

40. Schedule 1: Category A Heritage Resource sites in the pMEP have the same meaning as HNZPT Category 1 sites therefore inclusion of the Meretoto/Ship Cove site as a Category A status is warranted. The policies and rules relating to this status are heavily restrictive in terms of what activities can be undertaken.
41. Further, due to the nature of historic activity on the site, it would also be appropriate to include the listing under Schedule 3: Sites and Places of Significance to Marlborough's Tangata Whenua Iwi. HNZPT have confirmed their support of the dual inclusion.
42. Although the above simplifies the need to include a significant site in the plan, the addition of the seabed to the land portion of the site causes issues that fundamentally frustrate the intentions of the statutory framework higher in the planning hierarchy.
43. The scheduling of the sites would result in prohibited activity rules being imposed on activity undertaken on the seabed. The relevant rules are:

2.27.1. The whole or partial demolition or removal of a Category A Heritage Resource identified in Schedule 1 of Appendix 13, except for a dangerous building under the Building Act 2004.

2.27.2 The destruction of a site or place of significance to Marlborough's tangata whenua iwi identified in Schedule 3 of Appendix 13.⁴

44. As an example, the temporary anchoring of a vessel in the bay would arguably be a destructive mechanism to be prohibited. This would limit recreational users of the area, and restrict the public from visiting the site. These are activities that alternative policies in the pMEP seek to promote rather than restrict.
45. Further the prevention of these sorts of activities would impair the public's rights accorded under Section 27 of the Marine and Coastal Area (Takutai Moana) Act 2011 as stated below *[own emphasis added]*.

(1) Every person has the following rights:

(a) to enter, and pass and repass through, the marine and coastal area by ship:

(b) to temporarily anchor, moor, and ground within the marine and coastal area:

(c) to load and unload cargo, crew, equipment, and passengers within the marine and coastal area:

(d) to remain in a place within the marine and coastal area for a convenient time:

(e) to remain temporarily in a place within the marine and coastal area until wind or weather permits departure or until cargo has been obtained or repairs completed.

⁴ Both rule 2.27.1 and 2.27.2 are still under appeal

Statutory Consultation

46. Consultation with iwi authorities on variations 2, 3 and 4 were held concurrently. Iwi were invited to participate at two hui, the first held on 17 August 2022 and the second on 30 August 2022. Useful feedback and discussion for consideration in this report was provided at these hui.
47. Letters were sent to the relevant crown ministers. None sought additional consultation on the variation prior to notification.

Summary of advice from iwi authorities

48. During consultation there was general agreement that the site should be dual listed in Schedule 1: Category A Heritage Resources and Schedule 3: Sites and Places of Significance to Marlborough's Tangata Whenua Iwi.
49. Concerns were raised on the potential for some cultural activities to be unduly restricted at the site, on both land and seabed, if the heritage resource provisions were applied. Specific activities that may be affected have not yet been identified.
50. Ngāti Toa commented that the provisions may not be adequate to provide for cultural activities and should be re-evaluated. Further consideration of this is provided in the evaluation.
51. No formal advice was provided subsequent to the hui for inclusion in this report.

PART C: SECTION 32 EVALUATION

52. The Section 32 process must be transparent and well documented, with all assumptions and decisions justified. This helps to ensure that:
 - Good environmental outcomes are achieved.
 - Plan provisions are targeted at achieving the purpose of the RMA by the most appropriate methods.
 - Councillors and other decision makers have sound policy analysis on which to base their decisions about resource management issues.
 - A sound basis is provided for reassessing whether the chosen provisions are necessary and appropriate once they are in use and the environmental outcomes become apparent.
53. Ngāti Toa's comments regarding the desire to change the policy framework for heritage resources is noted, however, this proposed variation is giving effect to the current framework, which has recently been through a Schedule 1 RMA process, and changes to provisions are not contained in the proposal. What Ngāti Toa is requesting would need scoping and progression through a subsequent process. It would be useful if Ngāti Toa could provide a commentary on where the

current planning framework is insufficient in its provision for iwi cultural activities and the reasoning for the deficiencies to inform Council's understanding of the concern being raised.

54. The potential to restrict cultural activities was also raised by several iwi, and this concern has been considered as part of the evaluation. However, difficulties arise in giving weighting to the concern without knowing if there are specific activities that would be frustrated or prohibited by the current heritage resource policy framework. If certain activities are identified, it would be useful to receive details of these as part of the variation process.

Evaluation of Options

55. The Council considered the following five options for addressing the issue:

- Option 1: Status Quo/Do Nothing.
- Option 2: Use of voluntary controls and educational material.
- Option 3: Incorporate the Heritage New Zealand list into the pMEP by reference.
- Option 4: Add the site to the Heritage Resource Schedule (not including HNZPT proposed seabed area)
- Option 5: Add the site to the Heritage Resource Schedule (including HNZPT proposed seabed area)

56. The following table assesses the costs and benefits of the environmental, economic, social, and cultural effects of the four options.

Option 1: Status Quo/Do Nothing.

Benefits/Advantages	Costs/Disadvantages
<ul style="list-style-type: none"> • No changes for the wider public to consider when undertaking activities in and around the identified site. • No additional requirements on Council in terms of ongoing compliance. • Inclusion of the site in the HNZPT list offers some protection through awareness without Council needing to take any further action. • Allows the landowner to manage the property without control from Council. • None of the land is in private ownership. 	<ul style="list-style-type: none"> • Frustrates Council's requirement to give effect to the RMA and is not in keeping with the objectives and policies of the pMEP. • Voluntary management of the heritage resource may be insufficient to preserve the unique values of the site. • Impedes the relationship with multiple iwi and agencies whom Council has, through its plan, endeavoured to work with to manage resources in the district. • Potential for degradation of environmental

<p>The Department of Conservation ownership of the land provides some protection against unwanted activities occurring.</p> <ul style="list-style-type: none"> • Would not impose restrictions that could potentially impact the ability of iwi to undertake cultural activities. 	<p>quality and community wellbeing.</p> <ul style="list-style-type: none"> • No additional awareness of the site or its history through planning mechanisms (i.e. mapping)
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Summary: Although the status quo option is the least work intensive, it would not meet Council's statutory requirement under the RMA to protect a heritage resource from inappropriate subdivision use and development.

The financial burden would be low but this is inadequate to offset the cost to the environment and the community.

Option 2: Use of voluntary controls and educational material

Benefits/Advantages	Costs/Disadvantages
<ul style="list-style-type: none"> • Although set up costs can be high, production and distribution costs of education material would be low in the long term. • Education on heritage resources is beneficial for more than one site and could assist in such things as promotion of the site and wider Marlborough as a tourism destination. • Promote community engagement in the heritage resource. • The landowner is able to manage the site without additional restrictions imposed by the pMEP. • Would not impose additional restrictions that could potentially impact the ability of iwi to undertake cultural activities. (Activities that may be restricted have not yet been identified). 	<ul style="list-style-type: none"> • Initial cost of production and distribution of materials can be high. • Frustrates Council's requirement to give effect to the RMA and is not in keeping with the objectives and policies of the pMEP. • Voluntary management of the heritage resource may be insufficient to preserve the unique values of the site. • Impedes the relationship with iwi and multiple agencies whom Council has, through its plan, endeavoured to work with to manage resources in the district. • Potential for degradation of environmental quality and community wellbeing. • Imposes requirements on other areas of Council.

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Summary: This option may prompt a community lead initiative to maintain and enhance the area. Based on previous behaviour, i.e. commemorations erecting pouwhenua and storyboards on the site, this could be a feasible option in this instance. However, this does not protect the site in longevity and with a change in circumstance or landowner it would mean long term protection is not assured. Further, Council recommending voluntary controls and educational material are used by the landowners and wider community is insufficient action to meet the objectives and policies of the pMEP.

Option 3: Incorporate the Heritage NZ list into the pMEP by reference

Benefits/Advantages	Costs/Disadvantages
<ul style="list-style-type: none">• No need for Council to make its own assessment on future heritage resources included on the list.• Would promote the list as the most up to date and relevant source of information.• Would give effect to Section 6 of the RMA.• Would infer that Council identifies all heritage resources (as considered by HNZPT) as of the utmost importance.• Only requires one plan change to amend the appendix to reference the HNZPT list for all future HNZPT inclusions.	<ul style="list-style-type: none">• Council would no longer have the ability to consider heritage resources on their merits and against the regions planning framework.• Council would no longer have the ability to consult with iwi and other relevant stakeholders such as community groups when considering the most relevant course of action.• Appendix 13 would still be required to provide for any heritage resources that are outside of the HNZPT list.• Sites may not be mapped on Council's system which would reduce the sites exposure to the public diminishing the level of protection and awareness.• Potential to impact the ability of iwi to undertake cultural activities. (Activities that may be restricted have not yet been identified).

Summary: This option would provide all HNZPT list sites with additional protection, relying on HNZPT's criteria to assess sites, as soon as a heritage resource was approved to be included on the List. Additionally, Section 6 of the Act, 'matters of national importance' would be met. However this removes Council's ability to consider the option and engage with iwi and consult with other stakeholders. The Meretoto/Ship Cove inclusion is a good example of the potential perverse outcome that could occur through incorporation without consideration for the site. In this case the seabed portion of the listing needs to be adequately considered to ascertain whether the policy framework would unduly limit activities in the coastal marine zone.

In addition, the regional adoption of the site in the pMEP brings community awareness to its significance; both through the plan change itself and its representation in Appendix 13.

While this option is both an efficient mechanism to include sites and requires minimal monetary input, it is not an effective method to achieve the intent of the pMEP. Further there are non-quantifiable costs, such as those associated with cultural activities and recreational use, that could be negatively impacted, particularly if the seabed is included as a significant value.

Option 4: Add the site to the Heritage Resource Schedule (not including HNZPT proposed seabed area)

Benefits/Advantages	Costs/Disadvantages
<ul style="list-style-type: none"> • Best method to achieve the Council's requirement under the RMA while retaining control to ensure best outcomes for Marlborough. • Meets the requirements as set out in the objectives and policies. In particular, it equates to best practice for ensuring the ongoing maintenance and protection of heritage resources. • Maintains expectations from agencies where agreement has been made for resource protection. • Local recognition of the importance of this site. • Contributes to and provides additional control over the maintenance and enhancement of environmental quality and 	<ul style="list-style-type: none"> • Cost of preparing a plan change. • Possibility of appeal of plan change due to associated costs and time requirements. • Protection of such a large area may restrict suitable future developments in or around the site. • The land is under Department of Conservation ownership and therefore the potential for unwanted activities is already likely to be managed. • Potential to impact the ability of iwi to undertake cultural activities on land. (Activities have not yet been specified.)

<p>community wellbeing.</p> <ul style="list-style-type: none"> • The Plan Change process provides further opportunity to consult with iwi, relevant community groups and the general public. 	
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Summary: The addition of the site as a Heritage Resource in the pMEP would afford it additional protection under the Plan both now and in the future. Council would meet its statutory obligations and its agreements with other agencies. It would also acknowledge the importance of the site both on a local and national level. Although the potential costs are higher for this option compared to some of the others, this is offset by the maintenance and enhancement this protection provides.

In regards to the seabed, it is further noted that the HNZPT report evaluating the site for inclusion on its heritage list, did not provide specific heritage values needing protection.

The status of historic heritage in Section 6 of the RMA (Matters of National Importance) would strongly suggest the non-quantifiable cost (environmental, social and cultural effects) of heritage site inclusions far outweighs the cost of a variation or plan change to have them incorporated.

If cultural activities were impeded or restricted by the variation proposal then further analysis would be required, however, without any specific cultural activities being identified that would be impacted, weighting of this factor in general terms is difficult. In the absence of information, protection of historic heritage as required by Section 6(f) should be given effect.

Option 5: Add the site to the Heritage Resource Schedule (including HNZPT proposed seabed area)

Benefits/Advantages	Costs/Disadvantages
<ul style="list-style-type: none"> • As listed in option 4 • Restricts destructive activities in the coastal marine area 	<ul style="list-style-type: none"> • As listed in option 4 • Restricts activities in the coastal marine area

Summary: The summary provided for Option 4 above isn't repeated here but is a relevant summary for Option 5 as well. In addition, this option includes the seabed between Ship Cove and Motuara Island and area around the island. This results in the unnecessary restriction of activity in the coastal marine area. This inclusion conflicts with the higher order statutory framework and therefore does not result in a suitable planning outcome.

In the case of the seabed, both cultural activities and other uses of the CMA would be unnecessarily restricted, and the seabed inclusion in the listing would frustrate Section 6 *(d) the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers*, as well as *(e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga* and *(g) the protection of protected customary rights*.

Preferred Option

57. Option 4 is considered the most effective and efficient means of achieving the purposes of the Act. The site boundary is attached as Appendix 3.

Effectiveness of Existing Plan Provisions

58. The incorporation of a new heritage resource into Appendix 13 does not require an assessment of the adequacy of the existing objectives and policies.
59. Changes to the pMEP as recommended in this Section 32 would only require inclusion of the heritage resource, Meretoto/Ship Cove to the following pMEP volumes:
- (a) Volume 3: The heritage resource list in Schedule I, Appendix 13
 - (b) Volume 4: Planning maps identifying the Meretoto/Ship Cove site – publicly notified map 117
60. The pMEP is not yet operative, however all but one appeal points in the heritage resources topic has been resolved. As appeals have been resolved the relevant policies can now have weight and rules can be treated as operative.
61. The provisions provided in the plan are effective methods to protect heritage resources and sites and places of significance to tangata whenua iwi. Meretoto/Ship Cove would need to be listed in order to receive the benefit of these.

Risk of Acting, or Not Acting, where there is Uncertain or Insufficient Information

62. The RMA requires the Council to evaluate the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules or other methods.
63. The Council does not consider that it is acting in the absence of uncertain or insufficient information, although it can always be argued that further investigations and research can be carried out.

CONCLUSION

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64. Based on the assessment above, the overall conclusion is that the proposed variation to include Meretoto/Ship Cove and the Island of Motuara (but excluding the seabed) is the most effective method to achieve the requirements set out in the pMEP policy framework as well as giving effect

to the overarching statutory requirements as set out in the RMA. Although it is difficult to place a monetary cost on the non-quantifiable aspects of the variation, it is clear that the financial implication of the variation process is insufficient to counteract those other aspects.

65. The Council considers that the process it has gone through has assisted in reaching a point where the proposed variation to the pMEP will ultimately achieve better outcomes for the community.

APPENDIX 1: PROPOSED PLAN CHANGE - SCHEDULE OF CHANGES

Schedule of Changes

Volume 3

Appendix 13

Schedule 1: Category I Heritage Resources.

This Schedule includes all Heritage New Zealand Category I Heritage Resources in Marlborough.

MEP Reference	HNZPT List No.	Heritage Resource	Address	Value applies to
1	329	Rai Valley Pioneer Cottage	Opouri Rd, Carluke, Rai Valley	Building envelope and interior
2	7289	Brownlee Homestead	14 Cook St, Havelock	Building envelope and interior
3	240	Former post office	61 Main Rd, Havelock	Building envelope and interior
4	7450	The Edwin Fox anchor windlass	Dunbar Wharf, Picton Foreshore	Anchor windlass
5	7450	The Edwin Fox hull	Dunbar Wharf, Picton Foreshore	Hull
6	Wahi Tapu 7364	Pa site, burial site, battle site	Moioio Island, Tory Channel	Island
7 & 8	7701 - Historic Area	Tory Channel Leading Lights	Lighthouse Reserve, Whekenui, Arapaoa Island, Tory Channel	Building envelope and interior
9	Wahi Tapu 7737	Brothers Island	The Brothers / Nga Whatu, Cook Strait	Island
10	1479	Langley Dale Station Homestead	Northbank Road, Renwick	Building envelope and interior
11	1539	Woodbourne Homestead and farm	720 New Renwick Rd, Blenheim	Whole property including buildings and structures
12	241	Ōpaoa River Bridge	SH1, Blenheim	Building envelope
13	243	War Memorial and Clock Tower	Seymour Square, Blenheim	Building envelope and interior
14	242	St Mary's Church (Catholic)	57 Maxwell Rd, Blenheim	Building envelope and interior
15	7748	Pilot's House	926 Wairau Bar Rd, Spring Creek	Building envelope and interior
16	990	Meretoto/Ship Cove (including the island of Motuara)	Meretoto/Ship Cove (including the island of Motuara)	Whole property (including monuments and Pouwhenua), Island

Schedule 3: Sites and Places of Significance to Marlborough's Tangata Whenua Iwi

This Schedule includes sites and places of significance to Marlborough's tangata whenua iwi

MEP Reference	HNZPT* No. (if applicable)	Heritage Resource	Location	Value applies to
1	Wāhi Tapu 7364	Pa site, burial site, battle site	Moioio Island, Tory Channel/Kura Te Au	Island
2	Wāhi Tapu 7737	Brothers Island	The Brothers / Nga Whatu, Cook Strait	Island
3 - 6	7755	Argillite quarries	Oparapara (Samson Bay), Croisilles - French Pass Road, Croisilles Harbour	Representative samples of quarry sites from which metasomatised argillite for tool manufacture was obtained
7	7333 Wāhi tapu Area	Urupā and archaeological remains of the original Māori occupiers, and later Māori and European whaling families	Te Awaiti Bay, Arapaoa Island, Tory Channel/Kura Te Au	Urupā
8		William Keenan the Elder whānau urupā	Te Awaiti Bay, Arapaoa Island, Tory Channel/Kura Te Au	Urupā
9	5979 9561	Wāhi tapu, archaeological and cultural heritage area – A. Wairau Bar/Te Pokohiwi B. Wairau Lagoons	Locality where Wairau River meets sea at Te Koko-o-Kupe/Cloudy Bay	All cultural and archaeological historic heritage values within A and B
<u>10</u>	<u>990</u>	<u>Meretoto/Ship Cove (including the island of Motuara)</u>	<u>Meretoto/Ship Cove (including the island of Motuara)</u>	<u>Whole property (including monuments and Pouwhenua), Island</u>



