

**Before the Marlborough District Council**

**IN THE MATTER** of the Resource Management Act 1991

And

**IN THE MATTER** of the Proposed Marlborough  
Environment Plan

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**Decision of the Hearing Panel  
as to Conflict of Interest Challenge by Mr C. F. McCallum**

**Dated this 2<sup>nd</sup> day of May 2018**

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1. In the course of the hearings on Topic 11: Coastal Environments, Mr C.F. McCallum presented evidence on the issue of discharge of untreated sewage from boats into the Marlborough Sounds enclosed waters.
2. Before doing so, he challenged the ability of the Chair, and of Commissioner Oddie, to be able to bring an impartial objective mind to bear on the issue, as in his view they were all affected by potential pre-determination or conflict of interest. He asked for the Panel's decision on that challenge to be recorded and advised as part of the decision process.
3. Whilst his challenge was not accepted as having a credible legal basis the Hearing Panel recorded that this part of the decision has been reached by the three independent Commissioners.
4. As we understood Mr McCallum's grounds for challenge they were:
  - (i) That the Chair, Councillor T Hook, was the owner of a tourist facility in the Marlborough Sounds and because of that fact he would be of the view that untreated sewage from boats should never be discharged into the enclosed Sounds waters.

- (ii) That Councillor Oddie as the owner or involved in shop called 'Oddie Marine' which sold Lectra San treatment units for small boats.
5. The law is clear that challenges to persons deliberating in judicial or quasi-judicial roles must be based on some objectively reasonable grounds to establish at the very least a perception of potential bias or pre-determination. Usually to be successful such challenges will be able to point to particular public actions or statements by the person challenged to support the challenge.
  6. In this case no such actions or statements were asserted. Moreover, Mr Oddie has advised he has had no interest in Oddie Marine since 2009.
  7. We do not accept that any reasonable person could conclude that purely because of Mr Hook's ownership of a tourist business in the Sounds, that necessarily meant he had a closed mind on this issue. There is simply no basis on which that can be reasonably asserted.
  8. For those reasons the challenge was rejected and the Hearing Panel proceeded on to consider submissions on the issue of the discharge of untreated sewage from boats into the Marlborough Sounds waters.

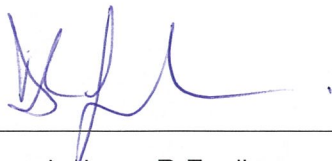
Dated 2 May 2018



Commissioner R Crosby



Commissioner S Kenderdine



Commissioner R Faulkner