

RMA Form 5

Submission on publicly notified proposed district plan

Clause 6 of Schedule 1, Resource Management Act 1991

To: Chief Executive, Hutt City Council

Via email to district.plan@huttcity.govt.nz.

1. This is a submission from Dave Heatley and Sue Rundle on the Proposed Lower Hutt District Plan 2025.
2. Our email address for service is dave.heatley@me.com.
3. We cannot gain an advantage in trade competition through this submission.
4. The specific provisions of the proposal that my submission relates to, my submission on those provisions, and the decisions I seek are shown in the below table. I also seek all further, alternative, necessary, or consequential relief as may be necessary to fully achieve the relief sought in this submission.
5. I wish to be heard in support of my submission.
6. If others make a similar submission, I will consider presenting a joint case with them at the hearing.

Introduction

7. We, Dave Heatley and Sue Rundle, are the owners of the property 42 Ferry Road, Days Bay. We have lived here since 2012. Dave has ancestral links with the Bays.

8. Our property is wholly within the proposed “Category 2 Sites and Areas of Significance to Māori” (SASM) at Days Bay. Should the proposed district plan be adopted without further change, our property will be subject to new objectives, policies and rules. We expect to bear substantial future costs from these changes.
9. We submit that including our property in a SASM is a *regulatory taking*, a diminishment of our legitimate property rights without proper process, adequate consultation, robust evidence, and compensation.
10. We note with irony that many historic Māori grievances relate to regulatory takings. However, today’s regulatory takings are not a viable “solution” to problems created by past regulatory takings. Indeed, they may provoke further grievances within the New Zealand population.
11. The supporting evidence cited in *Section 32 Evaluation* is completely inadequate to justify this regulatory taking. In its entirety, it reads: “Ōruamātoro Pā (category 2) Ōruamātoro was a Ngāti Ira pā said to have been located on the headland between Days Bay and Sunshine Bay at the top of Ferry Road. There were possibly cultivations and urupā associated with the pa in the general Days Bay area.”
12. “Said to have been located” and “possibly ... in the Days Bay area” fall well short of a reasonable standard of evidence for the proposed SASM. Moreover, this statement is neither attributed nor referenced. Without that, it is hearsay that lacks legal standing.
13. Further, the statement provides no guide to the specific boundaries proposed for this SASM. 42 Ferry Road is some distance away from the headland. It is a very steep section, unsuitable for cultivation, or siting a pā or urupā. We literally have no idea on what basis it has been included within the boundaries of the proposed SASM.
14. The Hutt City Council does not have our consent for this regulatory taking. The Council has not approached us directly, offered compelling evidence, or discussed compensation.
15. We demand, at minimum, that our property be removed from the map of the proposed SASM in Days Bay.
16. We believe that impingements on property rights such as those in the proposed District Plan should only occur with the explicit agreement of every affected landowner, where each is compensated as appropriate.

Decisions Requested

#	Chapter	Provision	Position	Reasons	Relief sought
1	SCHED6 – Sites and Areas of Significance to Māori		Oppose unless amended	SCHED6 lists proposed SASMs, the outer boundaries of which are mapped elsewhere in the proposed District Plan. These boundaries include private land without the consent of landowners.	Add an introductory clause saying “Notwithstanding the general descriptions in SCHED6, the specific sites and areas mapped in the district plan exclude all private land. A landowner may explicitly opt for their property to be included, at their sole discretion.”
2	SCHED6 – Sites and Areas of Significance to Māori	Ōruamātoro Pā (category 2)	Oppose	Insufficient evidence to decide on a hard boundary for the SASM.	If #1 is not accepted, then remove “Ōruamātoro Pā (category 2)” from SCHED6
3	SCHED6 – Sites and Areas of Significance to Māori	Ōruamātoro Pā (category 2)	Oppose unless amended	Category 2 rules are overly restrictive on private landowners whose land happens to fall within arbitrary boundaries.	If neither #1 nor #2 is accepted, then downgrade Ōruamātoro Pā to the less restrictive category 3.
4	Maps	Mapping for proposed SASM Ōruamātoro Pā	Oppose unless amended	The evidence presented does not support the inclusion of 42 Ferry Road in the proposed SASM.	If neither #1 nor #2 is accepted (and irrespective of whether #3 is accepted) then amend the Maps to exclude 42 Ferry Road from all proposed SASMs.

#	Chapter	Provision	Position	Reasons	Relief sought
Consequential changes					
5	Objectives	SASM-O1 to -O4	Oppose unless amended	The proposed wording is absolute. It does not allow for trade-offs between values, or for private property rights. Nor does it encourage negotiation or partnership.	Add the following proviso as appropriate: “, excepting that where the mapped boundaries of a SASM includes private land, actions to recognise, protect and maintain SASMs on that land require the explicit permission of the landowner.”
6	Policies	SASM-P1 to -P8	Oppose unless amended	The proposed wording is absolute. It does not allow for trade-offs between values, or for private property rights. Nor does it encourage negotiation or partnership.	Add the following proviso as appropriate: “, excepting that where the mapped boundaries of a SASM includes private land, actions to recognise, protect and maintain SASMs on that land require the explicit permission of the landowner.”
7	Policies	SASM-P9	Oppose	This policy is excessively general. It can be read as completely overriding private property rights within SASMs.	Delete this policy.
8	Rules	SASM-R4.2 & R4.3	Oppose unless amended	The 200m ² limit is arbitrary. No justification is presented for this cutoff.	“Activity status: Permitted” should apply to SASM categories 1 and 2.