SUBMISSION ON PROPOSED LOWER HUTT DISTRICT PLAN 2025

To: Chief Executive, Hutt City Council

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

1. **We, Ian and Raylene CADDIS** make this submission on the Proposed Lower Hutt District Plan 2025 ("Proposed Plan") [in our own names]and also on behalf of the Claddagh Trust, the ultimate owner of the property.

2. My email address for service is **Ian@Caddis.nz**

3. We could not and have no desire to gain any advantage in trade competition through this submission. We are concerned that the various interests in our land is likely to diminish its value. This should result in a corresponding reduction in future rates charges.

4. We are directly affected by an effect of the subject matter of the submissions that adversely affects the environment; and also affects future property resale value.

5. The specific provisions of the proposal to which our submission relates, our submission on those provisions, and the decisions we seek are shown below..

6. We also seek all further, alternative, necessary, or consequential relief as may be necessary to fully achieve the relief sought in this submission.

7. We wish to be heard in support of our submission.

8. If others make a similar submission, we will consider presenting a joint case with them at the hearing.

Background

9. Ian and Raylene Caddis are both tenants of the Claddagh Trust , subject to our obligation to maintain, insure and pay rates in respect of the property at 618 Marine Drive. Days Bay, Lower Hutt. Both of us are also Trustees of the trust which is the ultimate owner of the property at 618 Marine Drive, Days Bay, Lower Hutt.

   Ian and Raylene are both retirees. Ian was previously a lawyer and insolvency practitioner and Raylene was previously an accountant before resignation from CAANZ and retirement. Raylene has lived within the Hutt Valley for more than 20 years and Ian has lived within the Hutt Valley for more than 70 years, most of that time in the Eastern Bays and in Eastbourne.

   The Claddagh Trust exists to protect the property at 618 Marine Drive, mainly on the passing of both retirees.

We have in the past been adversely affected by decisions, rules and policies of the Hutt City Council, both in their consequences and their costs and we continue to be, It appears from the Proposed District Plan that we are likely to be further adversely affected. It also appears to us to be likely to affect the future resale value of our property. If sustained, these negative implications should also diminish future rates charges.

To a limited extent, our past negative experiences with Council decision making processes have coloured our view of Council processes, We have been conscious of this in making our submissions on the Proposed District Plan, and have made every effort to avoid any negative influences or emotive language from our submissions.

We received on one early April 2025 day, in our mail box 4 undated letters, from the Council, each referring to a different issue said to be affecting our land. At least 2 of the issues raised, we do not believe apply at all to our land and we have made submissions and requests accordingly.

Sending 4 letters on different topics on one day as Council has, feels to us very much like an intimidation tactic, possibly intended to complicate, confuse or frighten ratepayers from responding. We know that this is at least confusing. We have been directly asked by professionally qualified neighbours what it means and whether it is likely to have a negative effect on their property values and we required the assistance of Belinda Baylis to find our way just to read and understand relevant issues in the Proposed District Plan. We found the document itself to be is turgid and obscure.

On receipt of these 4 letters from Council, we began our response.

At a point early in the process, we received a further written communication from an apparent objector under the name “My Land campaign”. That submission was limited mainly to the **Site or Area of Significance to Maori,** matter., one of four said by Council to affect our land. We have used the submission template provided by the My Land campaign, partly because we agree with the issues raised by the submissions, and partly because it appears to be in a format preferred by Council, although challenging for us to use.

We have otherwise in respect of the **Site or Area of Significance to Maori,** used the “My Land” format with modifications that express our own feelings and terms, and have further modified the ”My Land” supplied template to add our own separate and further submission on the **Site or Area of Significance to Maori.**

We believe that something more than wishful thinking should apply before an already agreed and covenanted fraction of our property is extended inappropriately, to include its entirety. If there is something more, we have no idea what that is.

SPECIFIC SUBMISSION>

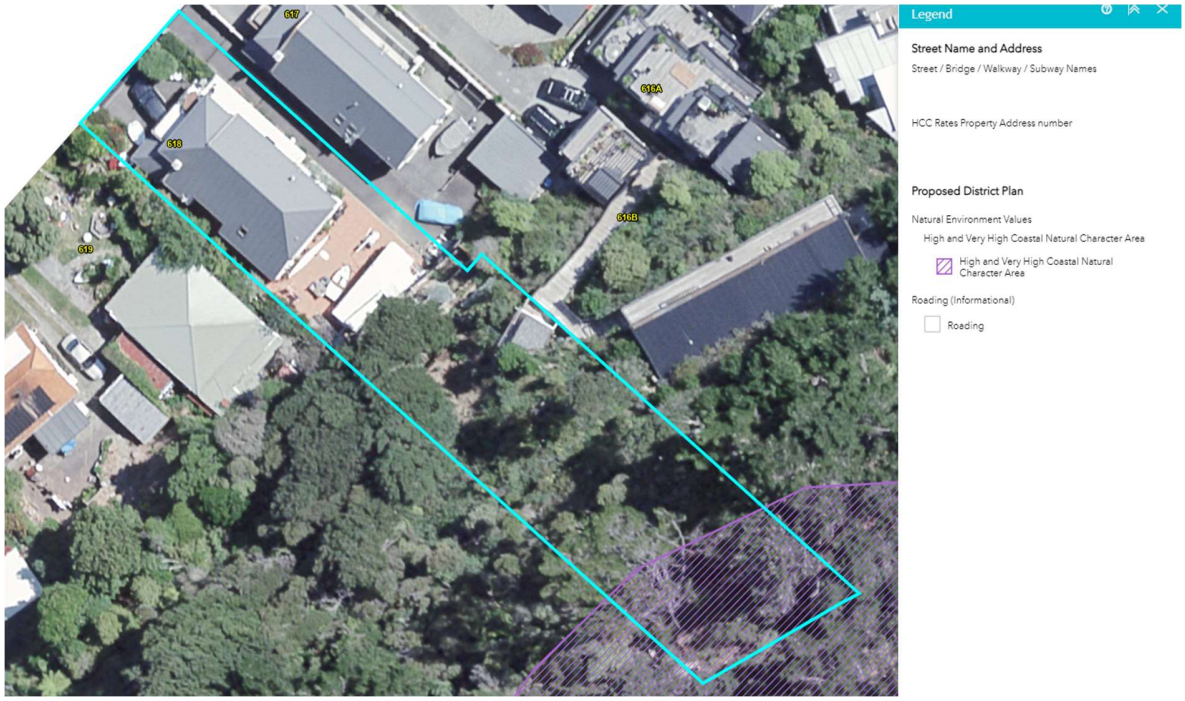
Specifically, our submission is that because we believe that the affected part of our land is already permanently covenanted in favour of the Wellington Tenths Trust which was done after examination by an archaeologist on behalf of the New Zealand Historic Places Trust. We ask that given the continuing existence of the Covenant, the land at 618 Marine Drive, Days Bay should otherwise be excluded from any Site or Area of Significance to Maori.

We believe that something more than wishful thinking should apply before an already agreed and covenanted fraction of our property is extended inappropriately, to include its entirety. If there is something more, we have no idea what that is.

In addition to an unusually helpful Council Staffer, who provided the images used in our submissions, and also sent 8 documents on which the conclusions are said to be based.

We have also been assisted by the advice of Emily Bayliss. Her assistance was excellent and while she was able to advise that it was not necessary for us to use the Template formats of either Council or “My Land”, Emily was possibly more direct in her suggested submissions for us than we would have been ourselves. We are grateful to her for her time and the valuable assistance she provided.

1. Outstanding Natural Feature, Outstanding Natural Landscape or Coastal Natural Character Area



includes links to:

- Wellington City and Hutt City Coastal natural Character Assessment 2016
- S32 Evaluation - Coastal Environment

OUR REVIEW

a.) We question why any Natural Character Assessment that is intended to form a basis for Council rule-making and operation for the next 10 years, might be an Assessment Report written on or before 2016. We note that the "S32 evaluation – "Coastal Environment" document also relies on and refers at paragraph 8 to evaluation material published in 2016. At least much, if not all of the work done, and on which those documents rely, is already 10 and commonly, more, years old.

b.) Elsewhere in the documentation provided by Council, we are told that most of the information relied on has been in use since 2003 -2004 and this Proposed Plan purports to be a "full review" undertaken by Council over recent years. We are also told by Council that regular review is essential because circumstances always change. There have certainly been significant changes in the Eastern Bays environment in the last 3 years caused mainly by the new cycleway currently under construction.

c.) We question why Council would choose to rely on what appears to be information that is far out-of-date, some more than 20 years old, to undertake an allegedly "full review" of circumstances that not only are already said by Council to be in a constant state of

change that necessitates the "full review", but have in fact, changed in recent years? There is no apparent account taken of glaringly obvious changes, such as the cycleway, which is having major impacts on the district. Central Government has already stipulated that the underlying legislation, the Resource Management Act 1991 (as amended) is also on the point of being radically altered by Central Government, (in one report said to be June), this year.

d.) We accept that Council may well have determined a general area that might be said to be within an "Outstanding Natural Feature, Outstanding Natural Landscape or Coastal Natural Character" area, but we do not believe this sensibly includes the demarked area at 618 Marine Drive, Days Bay.

THE SPECIFIC AREA IDENTIFIED BY COUNCIL

a.) As can be seen from the Council provided image above, the principal item, which occupies most of that identified area of our land, is a wilding pine tree. Whether its establishment was natural or not is doubtful but is not known to us or to Council. The tree is at least 45 years old. There are no other mature trees within the demarked area. This likely results from allelopathy, as the area around the tree has many fallen pine needles that would prevent the growth of other species to maturity. This tree is one of several now dropping further seedlings, of which 38 were removed in the past month, although many remain. Two similar trees were growing on our land below the demarked area, but these were felled, we believe in 1991 by a previous owner. There are other larger, stands of pine trees, in the area, some of which are also wilding in the district.

b.) We note that we are close to the edge of the asserted "Natural Landscape".

c.) We know of no other Outstanding Natural Feature, Outstanding Natural Landscape or Coastal Natural Character Area that might be said to be within the demarked area.

SUBMISSION:

1.) We request that 618 Marine Drive be excluded from the area described as "Outstanding Natural Feature, Outstanding Natural Landscape or Coastal Natural Character Area.

2.) High Natural Hazard Area;

I

- East Harbour Flooding Model Reports
- Hutt City Probabilistic Tsunami Hazard Maps 2021
- S32 Evaluation – Natural and Coastal Hazards

OUR REVIEW:

a.) The first we heard that our property was categorized as a high natural hazard area was when we received 4 undated letters in our letterbox in April 2025. One of these letters told us that there were restrictions on our property caused by a high natural hazard, but did not say why, or give any detail as to which natural hazard might be avoided by restricting the right to develop our land.

b.) We know and accept that we live close to the sea and that this has always been a natural hazard. We believe that Council both by its actions and its inactions has made the natural hazard and other less natural hazards, much worse for us.

c.) The lack of consultation and advance notice is unfortunate. The Proposed District Plan expects submissions without clarifying the actual hazard. If Council is going to impose rules on local landowners and ratepayers, it should give advance notice at least of which hazard is sought to be avoided, especially when they clearly know there is more than one.

d.) In response to our request made to Council, we were provided with some images,(Used oin this submission) such that it appears that the high natural hazard from which our property is proposed to be protected in the future, is of tsunami, high rainfall, storm surge and/or lack of drainage capacity.

e.) Also in response to my request, Council staff kindly provided a copy of a report entitled "East Harbour Flooding Model". This appears to be one of the reports which form the basis on which the Proposed District Plan is created. Analysis of the report provided, included more than 100 assumptions, error corrections and factual error notifications. We question whether any report with, or telling of, so many defects, many being defects of the report itself, is a suitably robust report to form any basis for any modifications to a District Plan?

f.) The "Flooding Model" Report is the only one of three reports we were sent by Council on this matter, which we have analysed in any detail. Mainly because the flooding issue is a potential problem to us as occupiers of one of the lowest lying properties on the Days Bay waterfront and some of the work recently undertaken, apparently at the behest of Council, exacerbates the hazard of the flooding issue on our property. Seawater is concentrated off the end of the cycleway and increased directly at the property at 618 Marine Drive, Days Bay.

g.) One issue repeated in the abovementioned East Harbour Flooding Model Report is flooding at various sites in Eastbourne caused by Insufficient "capacity". Where previous Council-installed stormwater outlets to the beach have now been completely removed, for a previously unknown extension to the cycleway, there now remains no capacity at all.

h.) In the case of 618 Marine Drive, which, although above road level, is one of the lowest lying properties on the Days Bay waterfront. Stormwater falls on the property and travels to a private sump, and from there to Marine Drive, crosses the road to the kerb and channel opposite, and from there, through a previous - Council installed drain beneath the footpath, to the beach. Until recently, ours was one of five landward-side properties that had this same facility. (Ours has been completely blocked for many months).

i.) In 2014 we, and other home owners on the waterfront received a letter advising that 11 carparks would be temporarily cordoned off for use by the builders of the East Harbour Shared Cycleway.

j.) Without any further notice, the cycleway was extended to include these parking spaces. This is a permanent structure. All 4 of the drains to the immediate south of 618 Marine Drive that took stormwater from each of those homes as well as the carriageway stormwater, was permanently removed and a concrete wall constructed in their place alongside the beach, that did not include any drainage of any kind.

RECOMMENDATION

k.) The channel alongside the kerb on the seaward side of Marine Drive has been full of debris since work began on the cycleway more than 2 years ago. Our recommendation to assist with this issue would be at least one but probably two additional sumps should be fitted and properly maintained (Emptied).

l.) One result of removal of stormwater drainage combined with the heavy equipment involved in the cycleway construction, has been serious deformation of the carriageway on Marine Drive, such that it will soon need to be completely reconstructed and paved.

m.) Our review and submission on this aspect of the matter was completed well before May 1st. The extension of time for submissions and the stormy weather on May 1st 2025 have coincided helpfully. We will try to add some of today's photographs to this submission.

n.) The short point in case we cannot add the images in the time available, is that as far along the waterfront as we can see, on Council land, the channel was holding water. We believe this is because the stormwater outlets to the beach are nearly all blocked or have been entirely removed as is the case where the cycleway was unexpectedly extended;

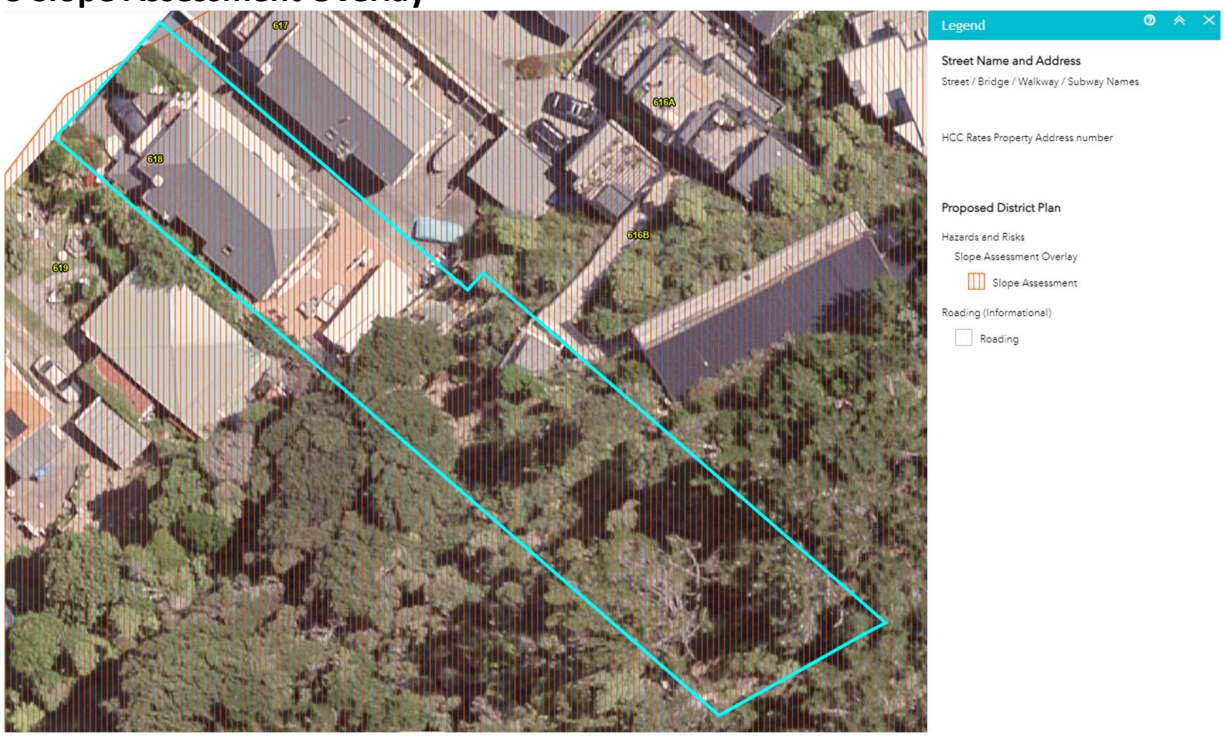
o.) In addition to the clogging of the drains, we have additional water to contend with, because the construction of the seawall which actually protects higher ground that needs no protection, ends adjacent to the seaward side of our property, thereby concentrating the flow of surge water directly to the front of our property and our neighbours because water flows and cannot go past the cycleway which has itself been become a water blockage.

REQUEST BY WAY OF SUBMISSION:

We respectfully ask that

1.) The Council stormwater drains which pass through Council footpaths, intended to remove runoff from the carriageway and which run through the footpath on the seaward side opposite each of the four properties to the immediate south of 618 Marine Drive, be properly restored; and
2.) the channel adjacent to the kerb on the seaward side and the associated drains that remain, be properly maintained and cleared; and
3.) in addition to restoring the drainage that was removed, Council install (and maintain) a sump, which would :-
    a.)Clean the stormwater of debris; and
    b,)Keep the channel clear for water to flow; and
    c.)Keep the beach clear of contaminants flowing there; and
    d.) Reconstruct the broken carriageway on Marine Drive.

3 Slope Assessment Overlay



I have attached links to:

- Slope Failure Susceptibility Assessment
- Slope failure Runout Assessment
- Memo on Slope hazard overlay

The s32 Evaluation for slope assessment overlay is included in the s32 Evaluation for Natural and Coastal Hazards (above)

OUR REVIEW:

1.) The Memo on Slope hazard overlay begins:- "The current District Plan has been in use since **2004.** Recently the Council completed a comprehensive review and revision of the plan." We question whether any reports or other papers that have a basis in anything written in 2004 or earlier can be sufficiently robust to justify changes for a Proposed District Plan in 2025?

2.) The Report is preceded by its "Disclaimers and Limitations which include:-

"Conclusions and recommendations in this Report are based on Client Data"….and;

"This assessment has been completed through a review of desktop information, mapping and photography. **It is not intended to precisely describe landslide risk at an individual property level**. Actual risk for an individual property should be determined through appropriate site-specific investigations, analyses and reporting completed by a competent Geo-Professional."

3.) The Slope Failure and Susceptibility Assessment says *"The locational accuracy and extent of data available for each landslide in the inventory is variable*" and "As a first step WSP carried out a technical assessment of slope failure susceptibility for the Council (WSP, 2021)" 2021 was before changes such as the Cycleway were begun

4.) This must mean that the Slope Assessment Overlay, which is capable of a negative effect, (and never a positive effect), on the resale value of affected properties, has its basis either (or both) in Council instruction and/or data which are sure to be at least variable and therefore unreliable. This assessment cannot include material changes to the district, and/or is in work carried out in 2021 by WSP itself. With no disrespect for WSP, we believe that if work done in 2021 by WSP was/ is to be relied upon for the Proposed District Plan, a different consultant should have been used for the Assessment Report submitted.

5.) The assessment also warns:-

> *"Physics-based methods were not used for this study as they require a large amount of data, are too time-consuming and computationally demanding* ***to be practical for this district-wide study****."*

6.) We question why any assessment might be used to require residents and ratepayers to seek resource consents and incur unavoidable costs, if the data is insufficient; the computation is too time-consuming and also too computationally demanding to be practical for its intended purpose?

7.) We also question the cost to date to Council and ultimately to ratepayers, of these reports and assessments which stipulate that they cannot be relied upon, should not be used for individual properties, or their development. This causes stress to homeowners and ratepayers and is likely to negatively affect the value of their properties, but can be of no concern or use to anyone involved in their creation.

8.) Fully 50% of the land at 618 Marine Drive is either flat or where the lower part of the land is not flat, it is supported by the construction of professionally designed and supervised retaining walls inspected by Council. Most of the lower 50% has no slope at all. Even so, the image provided by Council shows the whole of the land being subject to this assessment.

9.) Some of these reports stipulate they should not be applied to individual properties, and often have no application within the district, and often stipulate that the report cannot in any event, be relied upon. We question, and are concerned, that Council intends that residents and ratepayers who care to develop their properties, must obtain, and pay for, resource and other consents on such a flimsy basis?

4.) Site or Area of Significance to Maori.

OUR REVIEW:

As stated in our Background beginning, we concur with the commentary of Mr Hodge spokesman for "My Land" and for the reasons already given.

Even so, we have at least one additional reason to oppose the inclusion in the whole of 618 Marine Drive.

When the dwellings were being constructed at 617 and 618 Marine Drive, archaeological researcher, Emma Brooks, on behalf of the New Zealand Historic Places Trust, who was on the way to inspect a property then being constructed by a developer at Eastbourne, saw the construction work at 618 Marine Drive, Days Bay and mistakenly began the inspection believing it to be the intended property. With the approval of the developer, archaeological investigation was completed and resulted in approval for the work to proceed and also in a Covenant in favour of the Wellington Tenths Trust over the rear part of the property (approximately 10% of the land).

While we have no reservation about the Covenant registered and no expectation that it would not continue in place, because it is there already, we see no good reason why an interest similar to that should now be extended to the otherwise unaffected 90% of our land or be subject to further consultation or investigation.

There is no public access to the covenanted land, but we would cheerfully arrange access on proper request and even at quite short notice to anyone with a genuine interest in it.

Submission and requested decisions

13. Our submission and requested decisions from the Council are set out below.

14. Our primary requested decision is for the Independent Hearings Panel to recommend that the SASM provisions in the Proposed Plan should not proceed. The process the Council has followed has been so inadequate that no Independent Panel can have any confidence in the identification of sites compared to the existing Plan, or that the costs of extra restrictions on land use and development have been properly accounted for. In particular:

    a. The definition of category 2 and 3 SASMs is arbitrary and is **based only on what mana whenua have told the Council, with the only cross-check being a "desktop review"**

    b. The "**values" of the SASMs have not been identified**. This robs the Proposed District Plan of any content, as many of the sites no longer physically exist, leaving the question of what is left to protect

    c. The Council has failed to carry out even a **basic assessment of costs to landowners and the community from restricting land use and development**. It has not counted **the number of properties affected** or the difference compared to the old policy, or identified how the Proposed District Plan will **affect housing supply or economic growth in the District.**

    d. Council incorrectly believes that the RMA requires it to act as it has.

    e. The unquantified cost to landowners and the community is incorrectly identified by Council as an opportunity cost that Council willing to compel ratepayers and developers to bear in order to protect unidentified cultural and spiritual values.

    f. A new hazard is being created that the Proposed District Plan may provide Maori with decision-making rights in private land that they do not presently have, and which fly in the face the concept of freehold title.

    g. We support every effort that genuinely protects sites of significance, but believe that the SASM provisions in Proposed District Plan cannot be seen as stopping at that protection and therefore should not proceed.

15. In the event that the Panel does recommend that the Council to proceed with the SASM provisions, we request the changes to the Proposed District Plan that are set out below.

Schedule 6 We Generally Oppose Category 2 and 3 sites in Schedule 6 of the Proposed Plan are poorly identified, both in respect of their coverage area and in terms of their significance to Maori. Examples include:

Uncertain and arbitrary boundaries:
Korohiwa Pā: "**Said to be a pā** located on the spur above Point Arthur and the Eastbourne Bus terminal"
Ōruamātoro Pā (Days Bay):
The Schedule defines the site as follows: "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"**.

The Plan map apparently delinates the site by reference to a modern walking path: this is unlikely to be a relevant boundary.

Te Whiti Park: 172 White Lines East seems to be deliberately carved out from this site. If the sites reflect pre-20th century use, why are current land boundaries used to carve out some sites?

Whiorau/Lowry Bay: The significance of the site is defined by reference to (among other things) fishing, but the boundary of the site stops abruptly approximately half way around Lowry Bay. Unclear what evidence the Council has that Maori only fished in half of the bay.

Many sites are only significant in a general sense that does not justify protection

Pito One Precinct covers a significant part of the Petone business area. The reason for this broad brush protection seems to be that historical events (such as contact with Europeans) occurred in the area and the area contains a number of other sites (that have their own protections).

Nga Matau – Point Howard, and Whiorau/Lowry Bay are given significance solely because Maori fished and hunted there.
Days Bay is largely covered by the site because there were "possibly" cultivations in the general area

Te Whiti Park appears to be significant solely because it was once a Maori reserve on which hapū living at Waiwhetu pā were settled /after being designated as a Native Reserve and because the Park is named in honour of a commander of the Maori battalion. The protected area extends beyond the park and covers residential properties on White Lines East.

These are just a few examples. The boundaries are too vague to justify the restrictions imposed on property owners to protect them.

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These are just a few examples. The boundaries are too vague to justify the restrictions imposed on property owners to protect them.

We support g protection of genuine Maori cultural and archaeological sites provided that they are either on public land or are both intact and clearly of great cultural significance, such as a

historic urupā that is still intact today. These restrictions would affect a much smaller number of sites.

SUBMISSIONS

- That category 1 sites only include those that are either
- a) situated on public land; or
- b) are currently intact and are of such clear and obvious cultural or spiritual significance to Maori that imposing restrictions on use and development of private land is demonstrably justified
- That categories 2 and 3 be merged into a single category that recognises the sites and enables exercise of kaitiakitanga in land owned or controlled by mana whenua, but otherwise imposes no restrictions on use and development of the land (see further below).

Schedule 6 We Generally Oppose

Category 2 and 3 sites in Schedule 6 of the Proposed Plan are poorly identified, both in respect of their coverage area and in terms of their significance to Maori.
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Many sites are only significant in a general sense that does not justify protection.

Pito One Precinct covers a significant part of the Petone business area. The reason for this broad brush protection seems to be that historical events (such as contact with Europeans) occurred in the area and the area contains a number of other sites (that have their own protections).

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These are just a few examples. The boundaries are too vague to justify the restrictions imposed on property owners to protect them.
We support genuine Maori cultural sites being protected, provided that they are either on public land or where they are both intact and clearly of great cultural significance, such as an historic urupā that is still intact today. These restrictions would affect a much smaller number of sites.

As a result,we submit:-
Category 2 and 3 sites in Schedule 6 of the Proposed Plan are poorly identified, both in respect of their coverage area and in terms of their significance to Maori.

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SUBMISSIONS

That category 1 sites only include those that are either a)situated on public land; or b) are currently intact and are of such clear and obvious cultural or spiritual significance to Maori that imposing restrictions on use and development of private land is demonstrably justified.

That categories 2 and 3 be merged into a single category that recognises the sites and enables exercise of kaitiakitanga in land owned or controlled by mana whenua, but otherwise imposes no restrictions on use and development of the land (see further below).

SASM-O1 We support with changes.

Sites and areas of significance to Māori and their associated values are recognised, protected and maintained.

We support this clause, but submit the following rewording that recognises that while all sites and associated values should be recognised, only certain sites are available for protection and maintenance:

"Sites and areas of significance to Māori and their associated values are recognised, and (where restrictions on land use can be justified in accordance with the purpose of the Act), protected and maintained".

SASM-02 We support with changes

Tangata whenua can exercise kaitiakitanga in relation to sites and areas of significance to Māori.

We support the Proposed District Plan enabling tangata whenua to exercise tikanga Maori on their own land, but the clause should be clarified so that it does not appear to authorise activities on privately owned land. As currently drafted it appears inconsistent with private property rights and beyond what the the RMA allows:
"Tangata whenua can exercise kaitiakitanga in relation to sites and areas of significance to Māori, to the extent that this is consistent with private property rights".

SASM 03 We generally Oppose.

Tangata whenua have self-determination over sites and areas of significance to Māori, and their associated values are recognised and upheld by enabling active participation of Mana Whenua in decision-making.

We oppose this objective. It is inconsistent with private property rights and (arguably) with the RMA itself – particularly the reference to "self-determination". Where sites of significance to Maori are on private land, this is close to recognising that Maori have property rights in privately owned land.

There is no mention of the rights of self-determination of property owners or any protection of their right to undertake lawful activities on their land. The absence of any reference to or apparent consideration of that interest in this policy brings into question its general validity.

SUBMISSION

As a result, We submit that this objective should be deleted from the Plan.

SASM-O4 We oppose

The historic and contemporary connection Mana Whenua have with their sites and areas of significance and their associated values are recognised and provided for.

While this clause looks benign, the title of the clause ("mana motuhake") and the reference to "contemporary connections" appears, like SASM-O3, to suggest that Maori should have self-determination over private property. This is not consistent with private property rights or the RMA. SASM-O1 (with the proposed changes above) provides recognition of (and, in appropriate cases) protection of the sites, including the connection of Maori to those sites.

SUBMISSION

We submit that this objective should be deleted from the Plan.

SASM-P1 We support this policy with changes.

Identify sites and areas of significance to Māori with tangata whenua and in accordance with tikanga Māori.

The Hutt landscape is rich with Māori history. It is important to Māori, and to everyone in the Hutt Valley, to have Māori heritage on the land identified, recorded and honoured. It is understandable that Māori may also want to identify, record, and honour their cultural connection to this heritage.

However, the rights of property owners should not be restricted to protect category 1 sites and areas – sites should only be defined as category 1 if the conditions proposed under the Schedule 6 submission are met. We don't oppose Council consulting with mana whenua in respect of important Maori cultural sites, and making sure they are protected, but these requirements shouldn't be imposed on private landowners other than in the clearest of cases – for example, if there is an intact historical artefact on property, or an intact urupā or pā site.

To support the changes proposed to Schedule 6,We propose the following clarification to this policy: Identify sites and areas of significance to Māori with tangata whenua and in accordance with tikanga Māori, must be cross-checked against empirical evidence.

SASM-P2 We are neutral

Protect sites and areas listed as Ngā Awa o te Takiwā in SCHED6 — Sites and Areas of Significance to Māori from inappropriate subdivision, use, or development.

This policy is out of scope.

SASM-P3 We support this subject to a condition

Protect sites and areas listed as Category 1 in SCHED6 — Sites and Areas of Significance to Māori from inappropriate subdivision, use, or development.

We support this policy, as long as category 1 sites are defined as in our Schedule 6 submission.

SASM-P4 We oppose.

Avoid, remedy, or mitigate the adverse effects of subdivision, use, or development on sites and areas listed as Category 2 in SCHED6 — Sites and Areas of Significance to Māori.

We oppose this policy. “Avoid, remedy, or mitigate” is a high standard of protection (and therefore a greater restriction on land use and development). The greater the protection/restriction, the more stringent the Council should be in identifying the sites. They have not followed this principle here. A large number of category 2 sites are defined by reference to large areas (including substantial parts of Petone, Seaview, Lowry Bay, and Days Bay), with the breadth of the area apparently reflecting the Council’s inability to precisely define the site. This impression is supported by unacceptably vague language – as an illustrative example, when Schedule 6 justifies covering over half of the Days Bay, it records

Example.

“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 pā in the **general Days Bay area**”. (emphasis added)

It is unacceptable for a Council to impose significant restrictions on land use on such a flimsy basis. If the Council is unable to define the sites (and their importance) with clarity and evidence, it should not impose restrictions on landowners in the general area. In these circumstances, all the Council can do with these sites is recognise their historic importance – it is not possible to protect them if they cannot even be adequately identified.

SUBMISSION

We submit that this policy should be removed from the Proposed Plan. Category 2 and 3 sites should be combined into a single category (as described in Our submission on Schedule 6) and SASM-P5 should apply to that category.

SASM-P5 We support this policy

Acknowledge sites and areas listed as Category 3 in SCHED6 — Sites and Areas of Significance to Māori.

We support SASM-P5. Per Our submission on Schedule 6,We propose that categories 2 and 3 be combined into a single category of sites to which SASM-P5 applies.

SASM-P6 We support this policy – with changes

Enable tangata whenua to carry out tikanga Māori (including mahinga kai) within sites and areas of significance to Māori.

We support this provision insofar as it is enabling of tangata whenua carrying out tikanga Maori on land owned by them individually or collectively. We support the rights of Hutt residents and businesses to exercise their property rights, including in particular the right to grant access to parts of their land to enable tangata whenua.

It is not within the scope of powers under the RMA to enable one person or group to trespass on or enter another person's land without proper authority. This must be spelled out explicitly in the plan to ensure there is no confusion. The wording of this policy should be amended to reduce confusion about the effect of the policy (ie: that it does not enable tangata whenua to trespass on private land to carry out tikanga Maori):

"Enable tangata whenua to carry out tikanga Māori (including mahinga kai) within sites and areas of significance to Māori, to the extent that this is consistent with private property rights".

SASM-P7 We support this policy - subject to clarification

Encourage landowners to:
1. Engage with tangata whenua where subdivision, use, or development has the potential to adversely affect sitesor areas of significance to Māori, and
2. Work with tangata whenua to manage, maintain, preserve and protect sites and areas of significance to Māori.

We support this policy, as long as it is confined to category 1 sites (as defined as in our Schedule 6 submission).

SASM-P8 We are neutral about this policy

Avoid degradation of the mauri of sites and areas listed as Ngā Awa o te Takiwā in SCHED6 — Sites and Areas of Significance to Māori as a result of the following activities:
1. Cemeteries and crematoria,
2. Landfills,
3. Wastewater treatment plants, and
4. Earthworks and land disturbance.

The policy appears to be outside the scope of submissions

SASM-P9 We oppose this policy

Provide for maintenance, repair, alterations, construction and modification within sites and areas of significance to Māori where it is demonstrated that the spiritual and cultural values of the site are protected, having regard to:

1. Whether tangata whenua have been consulted, the outcome of that consultation, and the extent to which the proposal responds to, or incorporates the outcomes of that consultation.
2. Whether a cultural impact assessment has been undertaken and whether the proposal is consistent with the values identified in SCHED6 — Sites and Areas of Significance to Māori.
3. The potential adverse effects on the values of the site or area of significance to Māori, and the relationship of tangata whenua with the site or area, including:
    a. Loss of cultural values through modification of the landscape,

b. Damage to the integrity of the site or area through disturbance of land or indigenous vegetation,
c. Adverse effects on the mauri of water bodies, and
d. Reduction in the extent and quality of mahinga kai.

4. Any loss of access to the site or area of significance to Māori for customary activities.
5. Any opportunities to maintain or enhance the ability for tangata whenua to access and use the site or area of significance to Māori.
6. Where the activity will remove indigenous vegetation, the nature of any effects on mahinga kai and other customary uses.
7. The effects on sites or areas where there is the potential for kōiwi or artefacts to be found, including:
    a. Consideration of the need manage potential adverse effects through an accidental discovery protocol, and
    b. Whether any particular requirements as part of an accidental discovery protocol, such as the presence of a cultural monitor, have been identified as an outcome of consultation with tangata whenua.
8. Whether there are alternative methods, locations or designs that would avoid remedy or mitigate adverse effects on spiritual or cultural values associated with the site or area.
9. Whether the proposal provides an opportunity to recognise tangata whenua culture, history and identity including the potential to:
    a. Affirm the connection between tangata whenua and the site or area, or
    b. Enhance the cultural values of the site or area.

We oppose this policy.

At an overall level, this policy is not consistent with use and development of private land that is recognised in the sustainable management purpose of the RMA. It is entirely focused on mana whenua consultation and protection of undefined 'spiritual or cultural values' attaching to sites. Property rights are barely an afterthought – the policy deigns to 'provide' for them only after the self-determination of mana whenua has been entirely satisfied. Given the breadth of private residential and commercial land this policy is proposed to apply to, it is drafted far too broadly. It is not only inconsistent with private property rights; it is inconsistent with Council and Government policies designed to encourage increased housing supply and increased commercial development.

Specifically:

Sub-policy 1 comes close to establishing a mana whenua veto over resource consent applications. A consent applicant has two options – they can either include consent conditions 'recommended' by mana whenua, or they can take a risk on not including them. This is a significant risk – neither property owners nor the Council have any external standard to assess how stipulated conditions relate to protecting the 'spiritual or cultural values' of the sites, meaning an obvious risk that the Council will have no option but to rubber stamp such conditions and refuse consents where they are not included.

The requirement in sub-policy 2 for cultural impact assessments adds a significant cost hurdle for resource consent applicants for no clear benefit, particularly for the many sites that have long-since been developed over, or are defined solely by reference to Maori having hunted, fished, or cultivated crops in an area in the past.
Sub-policies 4 and 5 have the same problem as SASM-P6: they are drafted to suggest a right of access over private land is a given. These need to be redrafted to make clear that there is no general tangata whenua right of access or use to private property.

SUBMISSION

We submit that this policy should be removed from the Plan. If it is to be retained, it should be confined to category 1 sites, and/or the following changes should be made:

SASM-P9 – "Provide for maintenance, repair, alterations, construction and modification within sites and areas of significance to Māori, while ensuring where it is demonstrated that the spiritual and cultural values of the site are protected, having regard to… "
SASM-P9.1 – "Whether tangata whenua have been consulted, the outcome of that consultation, and the extent to which the proposal responds to, or incorporates the outcomes of that consultation".
SASM-P9.2 – delete
SASM-P9.3(a) – "a. Loss of cultural values associated with the site (where those values are defined in Schedule 6) through modification of the landscape"
SASM-P9.4 – delete
SASM-P9.5 – delete
SASM-P9.8 – "Whether there are proportionate alternative methods, locations or designs that would avoid remedy or mitigate adverse effects on spiritual or cultural values associated with the site or area (where those spiritual or cultural values are defined in Schedule 6).

SASM-R1 We support this rule subject to modifications

Undertaking tikanga Māori within a Site or Area of Significance to Māori - Activity status: Permitted (Category 1 – 3 sites)

We support this rule as it is enabling of the use and development of private property for traditional Maori activities. However, as with SASM-P6 above, we recommend the following clarification:
"Undertaking tikanga Māori within a Site or Area of Significance to Māori, to the extent that this is consistent with private property rights - Activity status: Permitted (Category 1 – 3 sites)".

SASM-R2 We Support subject to conditions

Permitted in category 3
Permitted in category 2 where compliance achieved with SASM-S1 – Accidental discovery protocol

Permitted in SASM Category 1 where:
Where:
a. The land disturbance is for:
i. Burials within an existing urupā,
ii. Gardening, where land disturbance does not exceed 10m in any 12-month period,
iii. Riparian planting,
iv. Indigenous vegetation planting,
v. The maintenance or repair of existing tracks and fences provided the area,extent and volume of land disturbed is limited to that which is necessary to maintain an existing track and fence along its existing alignment, and
vi. Demolition or removal of an existing building or structure, where the land disturbance does not exceed 50m in any 12-month period, and a maximum cut height or fill depth greater than 0.5m (measured vertically), and
b. Compliance is achieved with SASM-S1: Accidental discovery protocol.

Any activity that does not comply with the above rules is restricted discretionary resource consent, with matters of discretion confined to SASM P3, P7, and P9.

We support protections against land disturbance in sites of genuine significance to Maori, and so support protections against land disturbances in category 1 sites, provided that those sites are defined in a way that is consistent with our submission on Schedule 6.

We are not opposed to the accidental discovery protocol applying in the proposed merged category 2 (containing current category 2 and 3 sites) as this appears to require something that is probably already required (either by law or common sense). If the accidental discovery protocol is retained, there should be guidance for landowners about what qualifies as an 'artefact'. For example, the standard could provide a list of examples, or it could be defined by reference to a definition other legislation.

SASM-R3 We support this rule

Maintenance and repair of a building or structure within a Site or Area of Significance to Māori – Activity Status: Permitted

This rule enables the exercise of private property rights and we support it in its current wording.

SASM -R4

Additions, alterations or new buildings or structures within a Site or Area of Significance to Māori

Category 3 – Permitted
Category 2 + 1 – Permitted, where:

a. The additions and alterations are for an existing residential activity,
b. The new building or structure is less than 200m , and

c. The addition or alteration to a building or structure are within an industrial/commercial zone and are less than 200m.

We oppose this rule. It is fundamentally inconsistent with property rights and with the productive use and development of land. It will constrain commercial development in key business areas in the Hutt (Petone and Seaview) and restrict economic growth; it will also restrict residential housing supply in the midst of a housing crisis.

First, the way the section is currently written means that no person could ever satisfy activity conditions in category 1 and 2 sites By using 'and' instead of 'or', it suggests all three conditions must be satisfied for an activity to be permitted, an impossible task. If read literally, any activity on a category 1 or 2 site would require a resource consent.

It could be that this is a drafting error rather than what the Council intended – if it was done intentionally, this would be an absurd outcome. Even if it was unintentional, it speaks to the casualness with which the Council have imposed restrictions on a large host of landowners –We would expect that had the Council's planners and lawyers looked at this properly, they would have picked up this error, so it is concerning to us that they did not.
Even if the 'and' is read as an 'or', the restrictive effects on commercial property are obvious. In commercial development terms, 200m^2 is not large. The drawing of the boundaries for Pito-One Precinct and sites in Seaview in particular, combined with SASM policies (particularly P9) seems to provide something very close to a mana whenua veto over commercial development. The veto is not limited to commercial properties (notwithstanding what Campbell Barry has said publicly about the policy). Consent is clearly required for new builds on residential land over 200m2. While 200m2 is a healthy size, this rule would apply in cases where, for example, land is subdivided for the purpose of intensification, or where a landowner seeks to demolish an existing building and put up a new one in its place.

On the topic of the 200m^2 limit, and the distinction between residential and commercial activity – We understand that the Council's senior planner Tim Johnstone, said that the reason for this limit is because "mana whenua don't want to be consulted when someone is putting in a deck". It is totally unclear to us how protection of the cultural and spiritual values of a site come to depend on the square metreage of a proposed development and the underlying zoning of the site.
If this rule is retained, it should be applied only to category 1 sites (as defined in Schedule 6 submission).

SASM-R5 We support this rule

Demolition or removal of buildings and structures within a Category 1, 2 or 3 site or area of significance to Māori – Activity Status: Permitted

This rule enables the exercise of private property rights. We support it In its current wording.

SASM- S1

Accidental discovery protocol
Where kōiwi or other artefacts are unearthed during works, those undertaking the works must:

1. Immediately cease works,
2. Inform the relevant iwi authority,
3. In the case of kōiwi, inform the New Zealand Police, and
4. Inform Heritage New Zealand Pouhere Taonga, apply for an appropriate archaeological authority, and once granted commence works in compliance with the archaeological authority.

There are no matters of discretion if the standard is breached.

SUBMISSION

See submission on SASM-R2 above.

Sub-P15 and Sub-R6 (Subdivision)

SUB-P15 Subdivision of land containing a Site or Area of Significance to Māori
Provide for the subdivision of land containing a Site or Area of Significance to Māori where:
1. Consultation has been undertaken with Mana Whenua,
2. The values identified in SCHED6 - Sites and Areas of Significance to Māori are maintained and protected,
3. Alternative methods, locations, or designs that would avoid or reduce the impact on the values identified in SCHED6 - Sites and Areas of Significance to Māori have been considered, and
4. Practical mechanisms are incorporated to maintain or enhance the ability of Mana Whenua to access and use the site or area of significance.

SUB-R6 Subdivision of land containing a Category 1 or 2 Site or Area of Significance to Māori
1. Activity status: Restricted discretionary
2. Matters of discretion are restricted to:
1. The matters in SUB-P15: Subdivision of land containing a Site or Area of Significance to Māori.

This rule restricts property rights and will harm the expansion of residential housing supply through intensification.
The challenge of this provision is that it makes subdivision a restricted discretionary activity, with the matters of discretion limited to protecting the sites, consulting with mana whenua, and (most alarmingly) practical mechanisms to “maintain or enhance the

ability of mana whenua to use the site". This means that subdivision consents for land containing Māori sites is totally weighted towards Māori interests, with no attempt to recognise the interests of landowners and the general public in use and development of their land for housing and for commercial activities contributing to economic growth (as the RMA requires).
SUB-P15.4 is objectionable. it requires landowners to accept consent conditions that permit mana whenua to come onto their land as they please, without notice, permission, or any compensation for the landowner.

As a result:

- We do not oppose retention of SUB-P15.1, provided that there are no special rules for subdivision consents in SASMs.
- We do not oppose SUB-P15.2 and P15.3 if they are restricted to category 1 sites (provided these sites are defined as described in Our submission on Schedule 6)
- We oppose SUB-P15.4, which is fundamentally inconsistent with private property rights, and is suggestive of forcing landowners to grant a lease or licence over their land to mana whenua without compensation but the presence of which will diminish the value of their land.
- We oppose SUB-R6 – land containing Māori sites does not require its own subdivision rules. SUB-P15 (modified as described above) provides sufficient protection for these sites as part of the normal consent process.

EW-P10, EW-R10,
and EW-S9
(Earthworks)

EW-P10 Earthworks on Sites and in Areas of Significance to Māori
Earthworks on sites and in areas of significance to Māori are managed as follows:
1. Enable small-scale earthworks for burials within existing sites or areas of significance to Māori that are urupā.
2. Provide for other earthworks on sites and areas of significance in SCHED6 - Sites and Areas of Significance to
Māori where it can be demonstrated that the identified values will be protected, having regard to:
a. The extent of the earthworks,
b. The manner in which the earthworks are undertaken,
c. The monitoring of earthworks, and
d. The avoidance of archaeological sites.

EW-R10 Earthworks on Sites and in Areas of Significance to Māori
1. Activity status: Permitted
Where:
a. The earthworks are associated with burials within an existing urupā, or
b. Compliance is achieved with EW-S9: Earthworks on Sites and in Areas of Significance to Māori.
2. Activity status: Restricted discretionary

Where:
a. Compliance is not achieved with EW-R10.1.

Matters of discretion are restricted to:
1. The matters in EW-P10: Earthworks on Sites and in Areas of Significance to Māori.

EW-S9 Earthworks on Sites and in Areas of Significance to Māori
1. Earthworks must not exceed:
a. A total area of 50m per site within any 12-month period, and
b. A maximum cut height or fill depth greater than 0.5m (measured vertically).

Matters of discretion if the standard is breached:
1. The effect of the earthworks on the identified Sites and Areas of Significance to Māori.

We oppose these rules and policies in their entirety as they apply to category 2 and 3 sites (which, as described in our submission above, should be merged into a single category).

We do not oppose these rules and policies as they apply to category 1 sites, provided these sites are defined as described in Our submission on Schedule 6.

It is clear that Council has not properly thought through how these rules will protect the sites they have identified. The rules seem designed for high importance category 1 sites, particularly where there is a strong possibility of unearthing human remains or archaeological/cultural artefacts. But they do not make sense in the broad swathe of other sites captured under category 2 and 3.
This is especially so given category 2 and 3 sites are poorly defined in terms of area and many of which have debatable significance.

The land disturbance rules for category 2 sites only require following the accidental discovery protocol – in category 3 sites, they are permitted without the protocol. There is definition saying how a land disturbance becomes an earthwork (ie: a permanent alteration to the land), Restrictive rules should trigger for all sites. What spiritual or cultural interest does restricting earthworks in an area where, for example, Maori used to hunt whiorau/blue ducks (Whiorau/Lowry Bay)?

SUBMISSION

We submit that these provisions should be deleted, or they should be confined to category 1 sites (as defined in Our submission on Schedule 6)

ADDITIONAL AND SEPARATE SUBMISSION

This submission applies specifically to the land at 618 Marine Drive, Days Bay and is additional to and separate from those which have preceded it. Even so, this submission

also relates specifically to 618 Marine Drive Days Bay or to any **Site or Area of Significance to Maori** that can show that it has already been subject to archaeological inspection and resource consents**.**

SUBMISSION

Our submission is that because we believe that the affected part of our land is already permanently covenanted in favour of the Wellington Tenths Trust which was done after examination by an archaeologist on behalf of the New Zealand Historic Places Trust. We ask that given the continuing existence of the Covenant, the land at 618 Marine Drive, Days Bay should be excluded from any additional Site or Area of Significance to Maori.

SEPARATE AND ADDIONAL SUBMISSION

We see no reason why ratepayers or other interested parties expected by the Proposed District Plan to obtain Resource and other consents should be required to do so in any instance where they are able to show that the work and or applications required have already been completed.

Accordingly we submit that adequate provision should be made and included in any new District Plan enabling a would-be applicant to show that the required works and applications have already been completed and the Applicant is exempt for further enquiry.

Any such provision could also easily take proper account of changes that have occurred affecting any such application or consent.

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Ian CADDIS_____
[Name of submitter or person authorised to sign on behalf of submitter]
[Date]
**Note that you do not need to add a signature if you are submitting electronically, but adding a screenshot of your signature can make your submission look more professional. If this is a hassle, leave the signature line and fill in the name and date fields.*