

Submission on publicly notified proposed district plan

Clause 6 of Schedule 1, Resource Management Act 1991

Privacy Statement

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If your submission does not include your name and an address for service, it will be rejected.

While the Council will retain all information provided in your submission in secure council systems, all contact details will be removed from any documents published on Council's website once the district plan process is complete. However, your name and the contents of your submission will still appear in these documents.

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To: Chief Executive, Hutt City Council

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

1. This is a submission from **Andy Bogacki on behalf of Waione Property Management Ltd, the owners of the property at 34 Waione Street, Petone**, on the Proposed Lower Hutt District Plan 2025.
2. My email address for service is **andybogacki@bogacki.co.nz**
3. I could not 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. I, **Andy Bogacki, director and shareholder of Waione Property Management Limited**, the owner of the property located at 34 Waione Street, Petone (refer **Figure 1**), being legally described as **LOTS 104 105 106 107 DP 384 567/168**

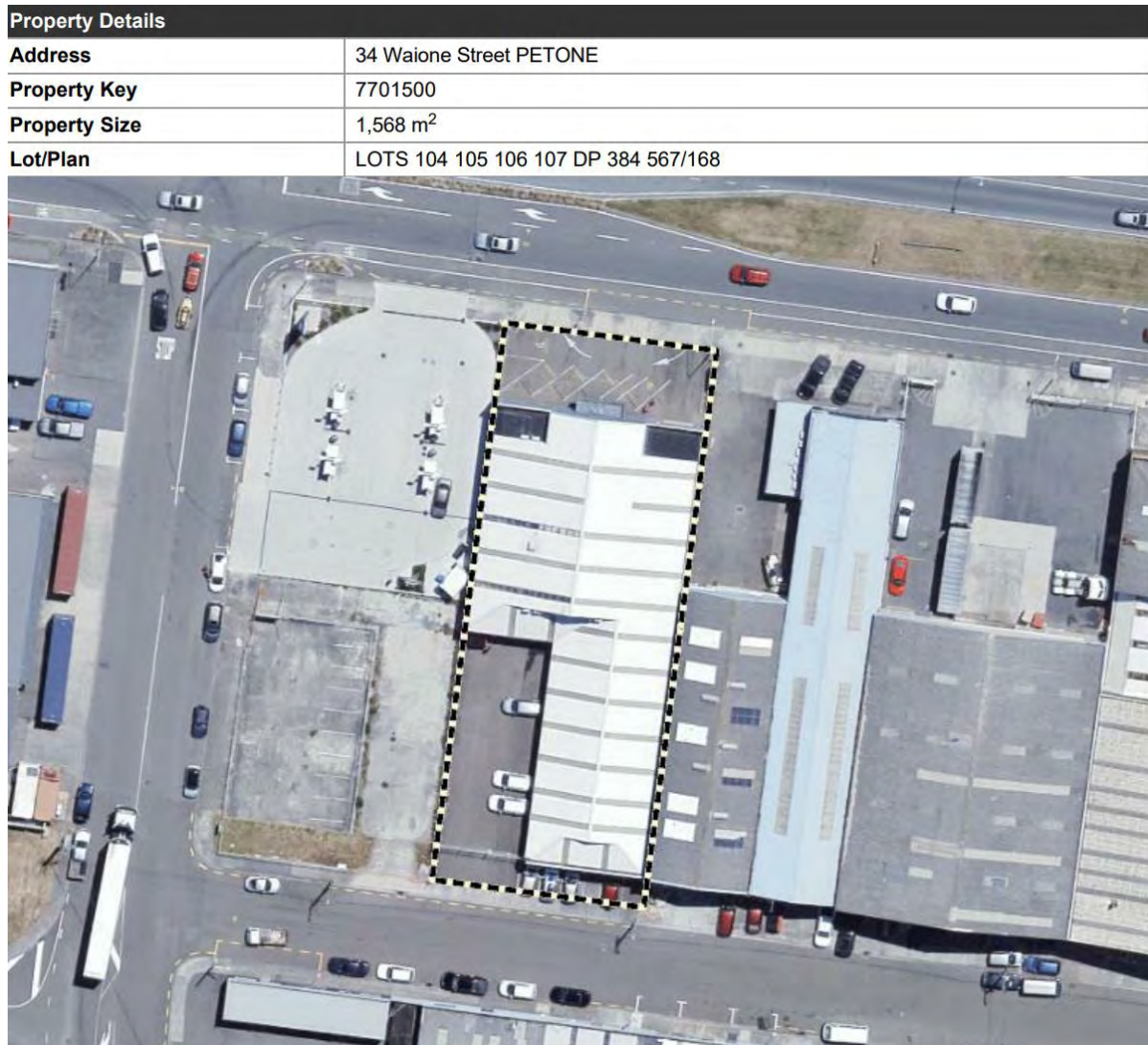


Figure 1: location of **34 Waione Street**, Petone (Source: HCC District Plan)

8. 34 Waione Street, Petone is presently occupied by **NZ Defence Force** - refer **Photo 1**.



PHOTO 1: 34 Waione Street

9. The proposed zoning under the Proposed Lower Hutt District Plan 2025 is General Industrial Zone (GIZ) which is supported by the owners of 34 Waione Street, noting that this zone provides for new buildings up to 22 metres in height and therefore enables significant redevelopment opportunities for the property as a permitted activity under Rule GIZ-R3, subject to compliance with identified standards.
10. However, 34 Waione Street has also been included in the Proposed Lower Hutt District Plan 2025 as a “Site or area of significance to Māori - Hikoikoi Pā” - refer **Figure 2** (below) - which, if retained, would have a significant detrimental effect on the redevelopment potential and therefore on the site’s property value as a direct consequence of this proposed regulation change.



FIGURE 2: Proposed “Site or Area of Significance to Māori - Hikoikoi Pā (Category 2)
(Source: HCC Proposed District Plan on HCC website)

11. On behalf of Waione Property Management Ltd, Andy Bogacki requests that 34 Waione Street, Petone is removed from the Category 2 Site or Area of Significance to Māori - Hikoikoi Pā for the reasons given in the following table;-

Decisions Requested

#	Chapter	Provision	Position	Reasons	Relief sought
1	Maps	The mapped outline of the “Site or Area of Significance to Māori - Hikoikoi Pā”.	Oppose	<p>The inclusion of 34 Waione Street, Petone and adjoining properties fronting Waione Street, identified on the Planning Map as being within the “Site or Area of Significance to Māori - Hikoikoi Pā”;-</p> <p>1.0 Proposes a reduction of private property rights of owners of the property held for many previously years under prior District Plans.</p> <p>2.0 Imposes significant costs and uncertainty on owners of the property in any</p>	<p>Removal of 34 Waione St, Petone and the other properties on Waione Street and on the northern side of Hautonga Street for inclusion from the designation of the “Site and Areas of Significance for Māori - Hikoikoi Pā”, and amend the Planning Maps accordingly.</p> <p>In the first and preferable alternative, to uphold the existing private property rights, - removal of all private properties from being identified as a SASM</p>

#	Chapter	Provision	Position	Reasons	Relief sought
				<p>redevelopment or expansion of the property.</p> <p>3.0 Imposes Maori rangatiratanga (Definitions;- chieftainship, right to exercise authority, ownership, sovereignty), over the current owners' property rights.</p> <p>4.0 Will adversely affect the current and proposed District Plans' anticipated and permitted redevelopment opportunities & intentions for the zone and individual property.</p> <p>5.0 Is arbitrary in adopting a 200m2 limit to any addition or alteration to a building or structure within an industrial or commercial zone before it is classified as a restricted discretionary activity.</p> <p>6.0 Is not evidence based and therefore inappropriate given that historic evidence points to Hikoikoi Pa land area being considerably smaller than the currently zoned area.</p>	under the Proposed District Plan.

For details of some of the reasons for opposing the provision, refer to the attached supplementary sheet.

SUPPLEMENTARY SHEET SUPPORTING THE REASONS AND RELIEF SOUGHT IN THE SUBMISSION BY ANDY BOGACKI ON BEHALF OF WAIONE PROPERTY MANAGEMENT LIMITED.

1. The area shown on the Planning Maps as the “Site or Area of Significance to Māori - Hikoikoi Pā” covers some sixty-three acres (25.5 hectares) compared to the 3 acres (1.2ha) understood to be occupied by the historic Hikoikoi Pā (Note: the Council’s s32 Evaluation report at page 76 states about the Hikoikoi Pā that in “1847 Colonel McClevery estimated that it covered an area of over three acres”). It also states that “much of the peninsula where the pā was located has been lost to coastal and river erosion”. There is no evidence, including any physical remains and/or archaeological evidence, justifying the approx twenty-fold expansion of the area deemed to be an area of significance to Māori. The area of significance should much more closely represent/be aligned with the actual location of the historic Pā at the Hikoikoi Reserve.
2. 34 Waione Street is historically and geographically disconnected from the original Pā. Any natural features that contributed to the cultural context and significance that previously existed have long since been lost, either by natural processes or by urban development approved under previous operative town plans/district plans.
3. If the Council has relied principally, (if not solely) on iwi and hapu to identify the extent of the Sites and Areas of Significance to Māori, there is in the opinion of WAIONE PROPERTY MANAGEMENT LIMITED an inherent ‘conflict of interest’ on the part of iwi and hapu, especially given such a significant increase in the area could result in unreasonable constraints on the legitimate existing property rights and development expectations of owners of sites now potentially subject to the SASM provisions, including:

- 7.0 SASM-O3 states that Tangata Whenua will have “self-determination” or rangatiratanga (Definitions;- chieftainship, right to exercise authority, ownership, sovereignty), over the property owners’ current property rights;-
- over sites and areas of significance to Māori; and
 - the requirement for resource consent for a Restricted Discretionary activity under Rule SASM-R4.4 for any new building with a floor area exceeding 200m².

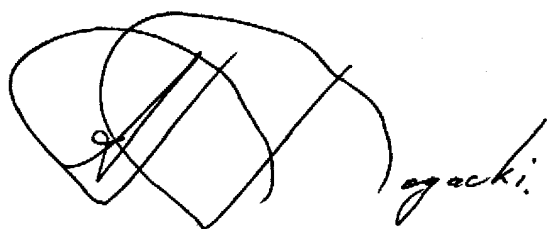
The “Reasonableness” assessment in 7.3 Evaluation of objective SASM-O3, is a significant overreach by Council and fundamentally unlawful in the expectation that to achieve a Council objective, private property owners should suffer costs and private property loss of value and utility. Seeking to justify this through the requirement for Council to recognise and provide for section 6(e), have regard to section 7(aa) and take into account section 8 of the RMA is unreasonable and not sufficient to overcome the significant costs, private property loss of value and utility to lawful property owners as a result of this imposition.

The entire costs, uncertainty and risk that Council in its justification considers is acceptable, will be borne solely and unjustly by affected private property owners – not by Council.

In summary, this submission opposes the inclusion of 34 Waione St, Petone within the Category 2 Site and Area of Significance to Māori - Hikoikoi Pā due to

- 1.0 lack of specific, verifiable evidence, to support/justify its inclusion,
- 2.0 the significant detriment of the reasonable and legal ability of the property owner to develop/redevelop 34 Waione Street in accordance with the provisions for the General Industrial Zone
- 3.0 the imposition of significant costs, private property loss of value and utility on the owners of 34 Waione Street.

Signed

A handwritten signature in black ink, appearing to read 'Bogacki', with a large, stylized circular flourish to the left.

.....
Andy Bogacki
Director
Waione Property Management Limited
Owner of 34 Waione Street, Petone

Dated: 29th March 2025