SUBMISSION ON PROPOSED LOWER HUTT DISTRICT PLAN 2025

To: Chief Executive, Hutt City Council

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

1. I, **Mark Blackham,** make this submission on the Proposed Lower Hutt District Plan 2025 ("Proposed Plan") in my own name.

2. My email address for service is **mark@blackham.co.nz.**

3. I could not gain an advantage in trade competition through this submission.

4. I am not directly affected by an effect of the subject matter of the submission that—
   (a) adversely affects the environment.

   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 and content.

5. I do not 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.

Background

7. I have lived in Lower Hutt for about 20 years, in the same house in Eastbourne – 396 Muritai Rd - where my wife and I raised our family. We love the Eastbourne Bays – the community, the coast and the East Harbour Regional Park. We've made good use of the amenities and respect the Council's efforts on the infrastructure of this part of the Hutt. I have coached for the rugby club, officiated for Hutt boxing, participated in the Hutt business community. My wife has done far more; on various Boards and volunteering for much community work.

8. During our time here though, the Council has regularly disrupted the peace and calm, and my respect for it, with dumb new ideas. The Council regularly tries to interrupt our life with actions that go past what is legally required – suggesting an agenda, not things we've asked for, expected, or (in my view) need. And I say "try" because these efforts regularly fall foul of public dissent and legal challenge. Examples include the the Significant Natural Area Plan and Heritage rules. Neither of these affected me, but I was appalled that the Council appeared ready to inflict demands and costs on the property of decent everyday people without warning, adequate justification, legal standing, nor compensation.

9. The District Plan does all this yet again. It's tiring, but we must fight it. HCC is the sort of council prepared to advance changes that large numbers of its citizens must oppose. It's not just oppose though – we must correct their mistakes, show their legal failures, and suggest alternative solutions. HCC's new ideas are always under-thought, rushed, sloppy, arrogant, and over-reach their remit, their rights, and their ability.

10. In respect of the changes I am opposing; I am appalled, but not surprised, by the Council's total lack of consultation prior to their ideation, formation, and in the case of the SASM application with immediate effect.

    a. The Council seemed to consult only with mana whenua before including the SASM sites in the Proposed Plan, and took the views of mana whenua as unimpeachable.

    b. On other matters it consulted only with technical "experts", not policy-experts (nor philosophers) about the need nor ramifications of the flood proposals.

11. I am not affected by the SASM changes, and only mildly by the other changes.

    a. I am opposing SASM on principle, and because it affects my friends and community, and may one day affect me.

    b. I opposed flood zones because they serve no useful purpose, and do not reflect what happens on my property – especially thanks to an enlarged storm water pipe (and drain inlet on my property) installed through the low and unbuilt section of my property.

    c. I am opposed to the high natural character zones, because they repeat all the mistakes of the SNA – that is, privatises the costs of Council aspirations for character that is already supplied by public land, over-rates the value of that natural character, and fails to appreciate this is a built-up urban environment – with plenty of natural character elsewhere in the city, region and nation.

Submission and requested decisions

The specific matters of the Proposed District Plan that my submission relates are:

1) Sites and Areas of Significance to Maori

2) The new Low Flood Hazard Overlay.

3) The new Slope Assessment Overlay.

4) The new High and Very High Coastal Natural Character Area.

- **SASM**

12. My primary requested decision is for the Independent Hearings Panel to recommend that the SASM provisions in the Proposed Plan not proceed. There is no reason for confidence in the sites identified compared to the existing Plan, and HCC has done no satisfactory work on the justness nor 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. Many of the sites and areas no longer physically exist, or have been earthworked and built over to such as extent that there is nothing left to protect
    c. The Council has failed to assess the costs to landowners and the community from restricting land use and development – and the benefits have not been calculated either! It has not counted the number of properties affected compared to the old policy, or identified how the Proposed Plan will restrict housing supply and economic growth in the Hutt.
    d. The Council wrongly believes that the RMA requires it to act as it has. The RMA absolutely does not require the policy nor the rules.
13. The purpose of the Proposed Plan appears to be to provide Maori with decision-making rights over private land, not to genuinely protect sites of existing significance. The SASM provisions in Proposed Plan should not proceed.
14. However, in the event that the Panel does recommend to the Council to proceed with the SASM provisions, I request the changes to the Proposed Plan that are set out in the table below.

Plan provision	What the Plan says	General Position	Reasons
Identification of sites			
Schedule 6		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: o Korohiwa Pā: "**Said to be a pā** located on the spur above Point Arthur and the Eastbourne Bus terminal" o 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. o 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? o 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 o 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). o Nga Matau – Point Howard, and Whiorau/Lowry Bay are given significance solely because Maori fished and hunted there. o Days Bay is largely covered by the site because there were "possibly" cultivations in the general area o Te Whiti Park appears to have significance solely because it was once a Maori reserve that hapū living at Waiwhetu pā were settled on 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.

Plan provision	What the Plan says	General Position	Reasons
			These are just a few examples. The boundaries are too vague to justify the restrictions imposed on property owners to protect them. I 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 a historic urupā that is still intact today. These restrictions would affect a much smaller number of sites. As a result, I submit • 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 Objectives			
SASM-O1	Sites and areas of significance to Māori and their associated values are recognised, protected and maintained.	Support with changes	I 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-O2	Tangata whenua can exercise kaitiakitanga in relation to sites and areas of significance to Māori.	Support with changes	I support the Proposed 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-O3	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.	Oppose	I 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. As a result, I submit that this objective should be deleted from the Plan.
SASM-O4	The historic and contemporary connection Mana Whenua have with their sites and areas of significance and their associated values are recognised and provided for.	Oppose	I oppose this clause. 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. As a result, I submit that this objective should be deleted from the Plan.
SASM Policies			
SASM-P1	Identify sites and areas of significance to Māori with tangata whenua and in accordance with tikanga Māori.	Support with changes	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. I 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, I propose the following clarification to this policy: Identify sites and areas of significance to Māori with tangata whenua and in accordance with tikanga Māori, cross-checked against empirical evidence.
SASM-P2	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.	Neutral	N/A – outside scope of submissions
SASM-P3	Protect sites and areas listed as Category 1 in SCHED6 — Sites and Areas of Significance to Māori from inappropriate subdivision, use, or development.	Support with conditions	I support this policy, as long as category 1 sites are defined as in my Schedule 6 submission.

Plan provision	What the Plan says	General Position	Reasons
SASM-P4	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.	Oppose	I 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 "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) This is just one example. 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. As a result, I submit that this policy be removed from the Proposed Plan. Category 2 and 3 sites should be combined into a single category (as described in my submission on Schedule 6) and SASM-P5 should apply to that category.
SASM-P5	Acknowledge sites and areas listed as Category 3 in SCHED6 — Sites and Areas of Significance to Māori.	Support	I support SASM-P5. Per my submission on Schedule 6, I propose that categories 2 and 3 be combined into a single category of sites to which SASM-P5 applies.
SASM-P6	Enable tangata whenua to carry out tikanga Māori (including mahinga kai) within sites and areas of significance to Māori.	Support with changes	I 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. It is not within the scope of powers under the RMA to enable one person or group to trespass on another person's land. 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	Encourage landowners to: 1. Engage with tangata whenua where subdivision, use, or development has the potential to adversely affect sites or areas of significance to Māori, and 2. Work with tangata whenua to manage, maintain, preserve and protect sites and areas of significance to Māori.	Support with clarification	I support this policy, as long as it is confined to category 1 sites (as defined as in my Schedule 6 submission).
SASM-P8	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.	Neutral	N/A – outside scope of submissions
SASM-P9	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.	Oppose	I strongly 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. More 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.

Plan provision	What the Plan says	General Position	Reasons
	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.		• 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. As a result, I 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 Rules			
SASM-R1	Undertaking tikanga Māori within a Site or Area of Significance to Māori - Activity status: Permitted (Category 1 – 3 sites)	Support with changes	I 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	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,	Support with conditions	I am supportive of protections against land disturbances 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 my submission on Schedule 6. I am 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 from legislation.

Plan provision	What the Plan says	General Position	Reasons
	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.		
SASM-R3	Maintenance and repair of a building or structure within a Site or Area of Significance to Māori – Activity Status: Permitted	Support	This rule is enabling of the exercise of private property rights and I fully support it on 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.	Oppose	I strongly 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 have to 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 – I would expect that had the Council's planners and lawyers looked at this properly, they would have picked up this error, so it is very concerning to me that they didn't. 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 – I've been told 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 me how protection of the cultural and spiritual values of a site depend on the square metreage of 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	Demolition or removal of buildings and structures within a Category 1, 2 or 3 site or area of significance to Māori – Activity Status: Permitted	Support	This rule is enabling of the exercise of private property rights and I fully support it on its current wording.
Standards			
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.**	Neutral	See submission on SASM-R2 above.

Plan provision	What the Plan says	General Position	Reasons
Other policies and rules			
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.	Oppose	This rule is yet another restriction on property rights, and will be particularly harmful in the expansion of residential housing supply through intensification. The key problem with 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 particularly objectionable, as it appears to require that landowners to accept consent conditions that allow mana whenua to come onto their land as they please and without any compensation for the landowner. As a result: • I do not oppose retention of SUB-P15.1, provided that there are no special rules for subdivision consents in SASMs. • I 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 my submission on Schedule 6) • I strongly 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 • I 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**	Oppose	I oppose these rules and policies in their entirety as they apply to category 2 and 3 sites (which, as described in my submission above, should be merged into a single category). I do not oppose these rules and policies as they apply to category 1 sites, provided these sites are defined as described in my submission on Schedule 6. It is clear that the 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 nothing to why when a land disturbance becomes an earthwork (ie: when it becomes 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)? As a result, I submit that these provisions should be deleted, or they should be confined to category 1 sites (as defined in my submission on Schedule 6)

Plan provision	What the Plan says	General Position	Reasons
	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.		

Low flood hazard overlay: the story of a storm water drain that works

- Remove the Low Flood Hazard Overlay
    - **My property is affected by the overlay**.
    - About 10 years ago a larger storm drain was put through the bottom of the section, and neighbours, from the Puketea pump station to the outlet. This included installation of a drain hole which allowed heavy rain water to drain out. Prior to that installation, the very bottom section (about one fifth of the section) had once or twice flooded up to about ankle height before draining through the porous sand/soil of this area within 12 to 24 hours.
    - There is limited historical basis and accurate future modelling that provides compelling evidence for this overlay on property.
    - The flood zone outline bears no resemblance to any historical flooding or the topography of my property, it needs to be removed or justification provided for the zone outline.
    - The flood zone outline suggests floods that the Council itself corrected over a decade ago, and therefore are not very relevant.
    - None of the referenced floods (in the evidence outlined in the Wellington Water report) over the last 20 years have impacted the bulk of my property. As said, the low-lying floods that occurred rarely now drain very quickly, so now don't occur at all thanks to the Council's enlarged storm pipe.
    - Any surface flooding on Muritai Road has been substantially a result of the lack of maintenance of a council or Wellington Water owned culverts, lack of storm water system capacity, ineffective run off measures and outlets subject to the sea tides, and less about excessive/extreme weather events.
    - The suggested 1% AEP or 1 in 100-year flood analysis by Wellington Water is noted as best practice in the PDP but is hypothetical and not proven fact, the supporting documentation highlights a wide range of assumptions which suggest that confidence in the modelling needs to be taken with a grain of salt or used as a guide at best. To use this data to set flood hazard zones is irresponsible given the lack of unequivocal evidence in the technical report and the fact that the categorisation of this area as being flood prone is contrary to the empirical evidence to us and our neighbours, who have lived in this street for many years.
    - The supporting evidence provided by Wellington Water simply highlights the inefficiencies of storm water management and system capacity. The story of the storm pipe through the bottom of the section demonstrates what good infrastructure can do. The impacts of the 1 in 100 year flood can be mitigated through prioritisation of investment in these systems (from streams to storm water outlets). The low flood zone suggests the Council wants an excuse not to provide the sort of infrastructure it once did – placing the burden on private properties and owners who have paid rates and tax to ensure this future planning and maintenance of infrastructure is implemented.
        - The storm water pipe expansion showed there was a time when the Council knew the issues, even if they weren't on a district plan, and fixed them.
    - The suggested overlay places an unnecessary consenting burden on all affected properties and removes the obvious necessity for Hutt City Council and Wellington Water to mitigate and remedy these flood risks through maintenance or changes to the stream/s, storm water capacity, and run offs.
    - An overly cautious Council planner could see the flood overlay as a red flag and become obstructive, even though the actual risk as noted by "low flood zone" is low or non-existent.
    - There has been no consultation with Hutt City Council over the implementation of this zone or how the zone line has been derived, or assessment of how the pervious surfaces of many of these properties act to support the storm water drainage.

- **Slope Assessment Overlay**
    - My property is not affected, but those of neighbours are. It adversely constrains the future use and development of the affected areas and unnecessarily raises concerns over stability and run out impacts.
    - There is no Slope overlay in the ODP.
    - The report material provided by WSP is substantial and generated from a desk top assessment, and they recommend this is not used as a property by property assessment without actual on-site inspection. So we question why the HCC has ignored that advice and have introduced a one size fits all approach to this overlay without that inspection.
    - The WSP report suggests there is a clear differentiation between areas across the Hutt Valley (with a range of very low to very high slope instability risk, differing geology, differing slope %'s, existing retention, per property). As a minimum, these key factors should have been advised to landowners with the underlying analysis that supports this rating for their property, nothing is provided in the PDP other than a one size fits all, the same rules, the same risk levels which is again not consistent with WSP's recommendations.
    - WSP modelling includes a wide range of factors with different weightings, given the seriousness of this and the impacts on private property, this modelling should be peer reviewed.
    - The Slope Assessment Overlay line needs to be tested on a property-by-property basis.

- The PDP creates a number of overlapping overlays that simply avoid future stability considerations (irrespective of the actual risk level) by limiting the ability to undertake development in these affected areas. Development can reduce risks to slope, land cover, soil drainage and hardness.

- The development potential of land in the Overlay areas may not only be limited by the new rules, but also could be prevented, depending on how the overlay provisions are interpreted and implemented by Council officers.

- Existing development demonstrates that the land can be successfully built on. We wish to avoid a situation where a processing planner sees the overlay as a red flag to development and is consequently obstructive to any development.

- Our concern is that the ability for potential future subdivision is removed through this becoming a restricted discretionary activity, this would seem to be a short sighted view and seems to ignore that our residential development specification and building code is world class to cater for our variable and diverse property conditions.

- Our position is that any assessment of slope hazard, instability, or run out will be reflected in the engineering designs for building foundations and earthworks for all land sloping or otherwise and is best covered by existing Building Act and Building consenting processes, which is where this evaluation of all slope conditions should actually take place, through expert reports provided in support of any building consent application.

- The proposed overlay places restrictions on earthworks and development; if the overlays/rules cannot be removed it should be made clear in the PDP that there is a permitted pathway to development of land in the Slope Assessment Overlay area.

- Of concern to property owners is the Stability and Runout areas that relate to areas owned by the HCC. The neglect of these areas can certainly have an impact on the future of the properties in question and this has been raised with the HCC previously, we see no measures reflected in the PDP as to how the HCC will manage its own estate to protect landowners. There is the concern that the presence of this overlay on private property may indicate an acceptance of risk from adjoining landowners and effectively rule out any legal avenues for redress from negligence or nuisance.

- There has been no consultation on the introduction of this assessment overlay despite the original WSP report being completed in 2021.

- **High and Very High Natural Character**

  - Remove the new High and Very High Coastal Natural Character Area from our property and other Eastbourne properties

  - This is yet another example of the Council trying to privatise the costs of its aspirations – aspirations it can already obtain through public land.

  - This new overlay is not about development management, it is about the prevention of any further development of these areas and retention of Coastal Natural Character. This does not need to be provided by private owners, when it can be preserved with the many hectares of Council reserve surrounding Eastbourne.

  - The Boffa Miskell Coastal Natural Character Assessment report summary findings 4.1.2 and section 4.17.4 provides an assessment of Moderate Abiotic, Biotic and Experiential Natural Character Attributes for the Eastern Bays. The report does not suggest there is any High or Very High Natural Character areas within the area depicted in the report.

  - Insurance will be heavily impacted by having detrimental overlays on property. We challenge the HCC to prove their claim that insurance will rise *without* it, and provide the insurance industry evidence to support their claim.

  - The same comments apply to the "Reasonableness test" outlined on page 82 of the Section 32 report; again there is a statement on how the insurance markets will react. We dispute this and ask for the evidence to suggest how insurance markets will react or respond to these changes. This is important as the PDP suggests there is a positive insurance impact and is part of the justification for these new overlays and rules.

  - There is no evidence provided stating what the Coastal Natural Character is that needs to be protected, we disputed this previously in the SNA process, where the special Natural Character that was not that special at all.

  - There is opportunity to provide incentives or compensation for the loss of use or development. This is also an aspiration of the Government and the Expert Advisory Group as part of the Resource Management reform under "Protection against regulatory takings (paragraph 104).

  - The limiting clearance to 50sqm per annum is noted but takes no account of necessity, for example should there be a warranted health and safety (to the landowner, neighbours, public) situation then there should be no limit to the area and no consent required. This should include any flora, fauna or foliage indigenous or not, dead, dying, diseased or not dead dying or diseased.

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Mark Blackham

2 May 2025