

Submission to Hutt City Council regarding Natural Open Space Zone in the Proposed Lower Hutt District Plan

To: **Hutt City Council**

Name of submitter: **Margot Fry and Ian Turner of 1248 Coast Road, Wainuiomata**

1. This is a submission on the Proposed Lower Hutt District Plan.
2. Ms Fry and Mr Turner could not gain an advantage in trade competition through this submission.
3. The specific provisions of the proposal that this submission relates to are:
 - 3.1. The proposal to zone land (including esplanade strips and the Wainuiomata River bed) between 1190 and 1352 Coast Road as Natural Open Space Zone.
4. Ms Fry and Mr Turner oppose the zoning described above for the following reasons:
 - 4.1. The existing esplanade strips, the riverbed and the remainder of the property lots are not “public land” in the same way that conservation, recreation or scientific reserves, to which the Natural Open Space Zone applies, are.
 - 4.2. The existing esplanade strips are subject to registered covenants on the relevant certificates of title. Those covenants provide the necessary and appropriate legal mechanisms for ensuring public access along the five metre esplanade strips adjacent to the river edge. The covenants do not grant the Council (or anyone else) proprietary rights to this land, beyond those in the registered covenants. Nor do they impose proprietary obligations on the owners of that land, beyond those in the registered covenants.
 - 4.3. The Wainuiomata River, in the area this submission relates to, is surrounded by land zoned as General Rural. In respect of the land owned by Ms Fry and Mr Turner, the land on either side of the river is owned together on one title, and is used for rural purposes. It is most appropriate for that land (including the riverbed) to remain in the General Rural Zone.
 - 4.4. Changing the zone of a corridor in the centre of privately held rural land to a Natural Open Space Zone does not serve any resource management purpose under the Resource Management Act, especially as it is proposed to apply to only a small section of river.
 - 4.5. The resource management purposes that are purportedly the objective of the proposed Natural Open Space zoning are already achieved by the esplanade strip and associated covenants. This proposed application of the proposed Natural Open Space Zone is not appropriate. It is disconnected from any public access and is discontinuous where, upstream and downstream of the proposed zone, private properties also consist of land on both sides of the Wainuiomata River.
 - 4.6. The land in question consists of river bed and adjoining low lying areas which are subject to regular flooding. The protections against inappropriate development which the proposed zone seeks to provide are therefore not relevant because there is no practical prospect of such developments on this land. The proposed zoning is not the most appropriate method to achieve the purpose of the Act.

- 4.7. To the extent that the proposed Natural Open Space Zone objectives, policies, rules and mapping go further than what the esplanade strip covenants provide, or are inconsistent with the esplanade strips and related covenants, they are inappropriate and unnecessary:
- (a) from a resource management perspective;
 - (b) given that there is already binding legal provision for public use of the land through esplanade strips; and
 - (c) given that the land is not capable of the kinds of development that the zoning seeks to control.
5. Ms Fry and Mr Turner seek the following decision from the local authority:
- 5.1. That the Natural Open Space Zone be removed from the land, easement strips and riverbed between 1190 and 1352 Coast Road, and that land remain within the General Rural Zone.
6. Ms Fry and Mr Turner wish to be heard in support of this submission.



Ian Gordon

Barrister, Stout Street Chambers

For and on behalf of Margot Fry and Ian Turner

2 May 2025

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