

RMA Form 5

# Submission on publicly notified proposed district plan

Clause 6 of Schedule 1, Resource Management Act 1991

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Your submission must include your name, and an address for service (preferably email, but you can use a postal address). All information you include in this submission, including your name and address for service, will be provided to other submitters and published on Hutt City Council's website. Paper copies may also be made available. Hutt City Council is required to collect and publish this information to carry out its functions under the Resource Management Act 1991 and to enable others to take part in the district plan process. The Council, other submitters, and the Environment Court may need to contact you during this process.

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](mailto:district.plan@huttcity.govt.nz).

1. This is a submission from **Creative insight limited** on the Proposed Lower Hutt District Plan 2025.  
For **10 waione street Petone** and **52 Penrose Street Woburn**
2. My email address for service is **axnmarketing@yahoo.com**
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.

23 April 2025

Lower Hutt City Council  
Private Bag 31912  
Lower Hutt 5040

Dear District Plan Review Team,

**Subject: Objection to Proposed District Plan - Classification of 52 Penrose Street as a "High Natural Hazard Area"**

I am writing to formally oppose to the proposed changes in the District Plan that seek to identify 52 Penrose Street as being within a "High Natural Hazard Area". "For the following reasons:

**1. Pre-Existing Dwelling with Flood Mitigation Measures**

The dwelling at 52 Penrose Street was constructed before the current Flood Hazard Overlay (FHO) rules existed. Despite this flood mitigation measures were included during construction to align with best practices, and these were fully approved through resource and building consents. This demonstrates that the flood risk was properly addressed at the time and that the measures in place meet or exceed the standards now being proposed or enforced.

The Council has already acknowledged that the home's raised floor level effectively reduces flood risk. Given this, it is unreasonable to now classify the property as a "High Natural Hazard Area."

While the Council may argue that the underlying hazard must still be considered for future development, such a classification should not override the fact that the existing dwelling is already protected. Including it in the FHO ignores the mitigation measures in place and unfairly penalizes the property based on hypothetical future scenarios, rather than its current mitigated state, is unreasonable. The classification should reflect the reality of the site, and since this dwelling has already been safeguarded, it should not be included in the FHO.

**2. Elevated Floor Level Meets Flood Mitigation Standards**

The dwelling on the site is raised at least 170mm above the crown of formation of Penrose Street. This elevation was a specific condition of the subdivision consent RM20-P18-52 and is also recorded as a consent notice on the property. The Council has previously acknowledged that the raised floor level provides flood hazard mitigation effects, and the property has been granted both resource and building consents based on these conditions. Given these factors, the property should not be classified as being within a high natural hazard area.

**3. Lack of On-Site Assessment and Reliance on Aerial View Mapping**

The decision to classify 52 Penrose Street as a high natural hazard area appears to be based on aerial imagery rather than a thorough review of council records. The failure to conduct a thorough evaluation undermines the credibility of the classification results in an inaccurate classification that once again does not take into account the flood mitigation measures in place or the detailed history of the property's development.

#### **4. Negative Impact on Property Value and Insurance Costs**

Classifying 52 Penrose Street as a "High Natural Hazard Area" will have real and significant financial consequences. Insurance premiums will increase as a result of this designation, placing an unnecessary burden on us as the property owner. Moreover, such a classification may deter prospective buyers and negatively affect the market value and saleability of the property. This unfairly penalizes responsible property owners who have already taken all necessary steps to mitigate potential flood risks

#### **5. Seeking the following decision from Hutt City Council**

Rather than applying a "High Natural Hazard Area" classification now, especially where the current risk has already been effectively mitigated, a more balanced approach would be to assess any potential flood hazard in the event of future redevelopment. Should the site be redeveloped or subdivided, the Council would then be in a position to assess any updated risk and impose relevant conditions through the resource consent process at that time. This would ensure appropriate risk management without unnecessarily disadvantaging current homeowners who have developed their property responsibly and in accordance with Council-approved flood mitigation measures.

#### **Conclusion**

In light of the above points, I strongly urge the Council to remove 52 Penrose Street from the proposed "High Natural Hazard Area" designation. I have attached the consent approval letter and a supporting letter from the Council supporting the existing flood mitigation measures are already in place.

I appreciate your attention to this matter and look forward to your response. Please do not hesitate to contact me should you require any further information.

Yours Sincerely

Jignesh Patel  
creative insight limited

## 52 Penrose Street WOBURN Inquiry

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From: Eder Lee (eder.lee@huttcity.govt.nz)  
To: axnmarketing@yahoo.com  
Date: Tuesday, 4 March 2025 at 02:14 pm NZDT

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Kia ora,

52 Penrose Street is within the Flood Inundation overlay area in the District Plan map. The dwelling was constructed prior to the operative district plan, so the requirements of the Flood Hazard Overlay were not in effect at that time. Nonetheless, flood mitigation measures were implemented, and Council approved the development.

52 Penrose Street is raised at least 170mm above the crown of formation of Penrose Street. This is noted as a condition of the subdivision consent RM20-P18-52, and is also established as a consent notice on the property. I have attached the consent approval letter to the email. The dwelling on site has met this requirement and is fully approved with both resource and building consents. The Council considers the raised floor level to have flood hazard mitigation effects.

Feel free to forward this email to any relevant parties, and if you have any questions, please let me know.

Kind Regards,

**Eder Lee**  
Planning Technician

Hutt City Council, 30 Laings Road, Hutt Central, Lower Hutt 5010  
P: 04 816 0163 M: W: [www.huttcity.govt.nz](http://www.huttcity.govt.nz)



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RM20-P18-52 - Approval.PDF  
39.7kB

Robert Hayles  
Environmental Policy and Approvals  
570-6775  
566-7098  
robert.hayle@huttcity.govt.nz  
RM20-P18-52

23 August 2001

Rosemary Dixon  
Buddle Findlay  
P O Box 2694  
WELLINGTON

Dear Ms Dixon

**PROPOSED SUBDIVISION REAPPROVAL DICK LOT 1 DP 12262, 52  
PENROSE ST**

I refer to your letter of 7 August 2001 in connection with the above matter and wish to advise that, in exercise of delegated authority, the Consents Subcommittee has resolved, in terms of Parts VI and X of the Resource Management Act 1991 the subdivision consent be **REAPPROVED** subject to the same conditions as contained in my letter of 29 January 2001 but with an amendment to condition (xv) to read as follows;

- (xv) (a) If constructed of wood the underside of the future floor level is to be not less than 150mm above the crown of formation in Penrose Street.
- (b) If constructed of concrete then the top surface of the floor level is to be not less than 170mm above the crown of formation in Penrose Street.

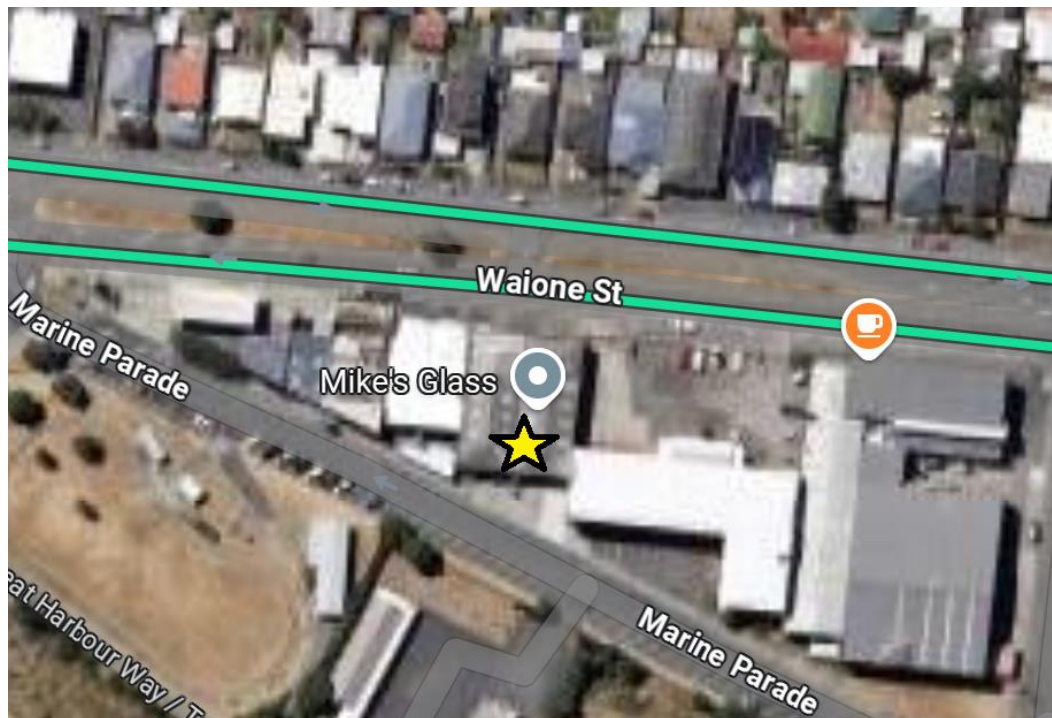
If required by Council the owner shall provide a certificate prepared by a Registered Surveyor that the floor has been so constructed. (To be protected by a section 221 consent notice under the Resource Management Act 1991).

Yours sincerely

## 10 Waione street

### Introduction

I, **Creative insight ltd**, the owner of the property located at **10 Waione street**, Petone being legally identified as WN43/104 and WN359/19 - Certificate of title, Legal LOTS 86 87 DP 384 SUBJ TO & INT IN PARTY WALL EASEMENT DP 80879 WN43/104 & WN359/19



**Figure 1:** location of **10 waione street** Petone (Source: Googlemaps)

**10 waione street** Petone is presently occupied by **Mikes Glass and Brockelsby's plumbing** - refer **Photo 1**.





**PHOTO 1: 10 waione street**

I am writing as the property owner of 10 Waione Street to formally oppose the proposed designation of my property as a "Site or Area of Significance to Māori" (SASM) under the new District Plan (PDP). While I acknowledge the importance of recognizing and preserving historically and culturally significant sites, I firmly believe that this proposed designation is unnecessary and places an undue burden on property owners.

The proposed zoning under the PDP is General Industrial Zone (GIZ) which is supported, noting that the GIZ provides for new buildings up to 22 metres in height and therefore enables significant redevelopment opportunities for **10 Waione street** as a permitted activity under Rule GIZ-R3, subject to compliance with identified standards.

However, **10 Waione street** is also identified in the PDP as a "Site or area of significance to Māori - Hikoikoi Pā" - refer **Figure 2** - which, if retained, would have a significant and detrimental impact on the potential [re]development of **10 waione street** Petone. SASM designation imposes additional hurdles, increases compliance costs, and places unnecessary restrictions on the property, ultimately diminishing its value. This constitutes a form of "regulatory taking," where the Hutt City Council is imposing land use restrictions that go beyond what is reasonable or fair, effectively limiting property rights and future development opportunities without offering compensation to the landowner.



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

As detailed in the following table, Creative insight limited requests that **10 waione street** is removed from the Category 2 Site or Area of Significance to Māori - Hikoikoi Pā.

### Decision 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 <b>10 Waione street</b>, 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” is not evidence based and therefore is inappropriate given that, as a direct consequence of this proposed ‘regulatory taking’, it will adversely affect the District Plan’s otherwise anticipated and enabled redevelopment opportunities for the property and therefore the owner’s legitimate property interests.</p> <p>For a more detailed outline of the reasons for opposing the provision, refer to the attached supplementary sheet.</p>	<p>Removal of <b>10 Waione street</b> and the other Waione Street fronting properties north of the western end of Marine Parade up to Kirkcaldy Street proposed for inclusion within the scope of the “Site and Areas of Significance for Māori - Hikoikoi Pā”, and amend the Planning Maps accordingly.</p> <p>In the first alternative, the northern boundary of the SASM should align with Hautonga Street and the western end of Marine Parade west of Kirkcaldy Street.</p> <p>In the second alternative, to uphold the sanctity of private property rights, removal of all private properties from being identified as a SASM under the Proposed District Plan.</p>

#### SUPPLEMENTARY SHEET STATING REASONS FOR SUPPORTING THE SUBMISSION BY Creative insight limited

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”). There is no evidence, including any physical remains and/or archaeological evidence, justifying the close-on twenty-fold extension 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.

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 **Creative insight limited** an inherent ‘conflict of interest’

on the part of iwi and hapu, especially given such a significant increase in the area that, through District Plan regulation ('regulatory take'), could in the future result in unreasonable constraints on the legitimate development expectation of owners of sites now potentially subject to the SASM provisions, including:

- SASM-O3 which states that Tangata whenua have "*self-determination*" 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 200m<sup>2</sup>.

**10 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.

In summary, the principal point of this opposing submission is the lack of specific, verifiable evidence connecting the property at **10 Waione street** Petone, to support/justify its inclusion within the Category 2 Site and Area of Significance to Māori - Hikoikoi Pā, to the significant detriment of the reasonable and legal expectations of the property owner to develop/redevelop **10 Waione street** in accordance with the provisions for the General Industrial Zone. The onus of proof should fall on the iwi and hapu concerned to establish much more precisely where the Pā was located, and not on private property owners in the very approximate vicinity of the Pā site to prove that it was not located on their property.

**Jignesh Patel**  
**Creative Insight limited**

Owner of **10 Waione street** Petone

Dated: **23/4/2025**