

To: Chief Executive, Hutt City Council

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

1. This is a submission from Elizabeth Knight, 11 Dillon Street, Lowry Bay on the Proposed Lower Hutt District Plan 2025.
2. My email address for service is lizhcmc@gmail.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.

Introduction

7. I am a resident and joint property owner of 11 Dillon Street, Lowry Bay, a private residence. Local historical records indicate 11 Dillon Street was the fourth house built in Lowry Bay, and now the oldest remaining residential property from this period. The house was built in 1865 known as the 'Farm house' and renovated in the late 1930s to its current floor plan. Much of the habitable land in Lowry Bay rose out of the estuary after the 1855 earthquake.
8. I am making a submission in response to Section 32 Evaluation of the District Plan in reference to Sites and Areas of Significance to Māori (SASM). 11 Dillon Street has been identified as an address within the mapped areas that is impacted by the SASM. The information as to how this area has been identified is vague and the proposed impacts are not clear. The single reference is found within Schedule 6, page 78 which states *Whiorau/Lowry Bay (category 2) Known as a place for harvesting Who (Blue Duck) the shoreline and bay as also an important fishing site. The area inland also held cultivations associated with Waiwhetu and Hikoikoi Pa.* The treaty of Waitangi settlements ensures the Crown safeguards Māori interests, rights, taonga and rangatiratanga, emphasises everyone is equal under the law and entitled to equal benefit and protection, and everyone including Māori are subject to the same laws and legal processes. The settlement also considered respect for private property rights ensuring private land owners are not subject to claims. The Hutt city council approach seems to be at odds with well established legal principles in New Zealand.
9. It is not clear how this particular area in the SASM has been determined and over what time period. The topography changed substantially after the 1855 earthquake and the

estuary habitat of the Blue Duck no longer existed after this natural disaster. It is not clear how an area impacted substantially by an earthquake, having been previously underwater and an estuary, and now raised land above sea level can have historical significance applied which suggest this event did not occur, or impact the land use. The original house built in 1865 shows a long standing land use and it is not clear which period the of time the duck harvesting or fishing is associated with? The fishing/hunting landscape ceased to exist because of the earthquake, not because of the house being built. It is also not clear how some addresses within Lowry Bay have been included or excluded within the SASM. What evidence is available to establish which addresses are considered under the SASM for Lowry Bay, notably not all of the shoreline or residential areas are included.

10. Lowry Bay is a medium density residential area and was previously zoned as special residential. It is an area characterized by large homes and sections, and this is a solely residential area. It would seem incongruent to be proposing restriction on buildings above 200sqm. Firstly it does not state if this is the area of the entire building or the footprint of the ground floor, and is this inclusive of decks, patios, verandas and outbuildings? Secondly, as most houses in Lowry Bay would be at least 200sqm in area, placing this restriction would be seeming to encourage development of much smaller houses of higher density.
11. As Lowry Bay is already a residential area, it already takes into account the SASM requirement to consider Tapu activities, and does not allow crematoria, Urupa or other sensitive matter. Tapu is already considered and respected in the restricted or prohibited activities in the plan as incompatible with residential area.
12. If and when a resource consent is required by SASM-R4.2(b), it is not clear what framework Council would apply when considering an 'oversized' residential building within the Whiorau Lowry Bay SASM. The cultural resource is intangible and relates to a historical use no longer practiced. It is not clear where the nexus lies between a 201 sqm residential dwelling and the provision for tikanga Māori? How does this apply to subdivision of private property? We don't understand what could be applied to or become enforceable given existing private property rights, or what remedies would be available if tikanga practices interfered with the underlying residential use of a site, given that tikanga Māori is permitted by SASM-R1 on private property.
13. With respect to a resource consent application, it is also not clear what the proposed consultation criteria would be, who the consultation would be with, and what are the various pathways that could result within the process. A lack of clarity on desired outcomes or available options as a result of unclear decision making criteria, and impacts on existing rights of the property owner, make these provisions unworkable as currently drafted for the Whiorau Lowry Bay SASM.

Decision Requested for Sites or Areas of Significance to Māori, schedule 6. Reasons;

14. There is inadequate evidence and justification to categorise 11 Dillon Street and other residential property in Lowry Bay as SASM category 2. The rationale for identifying Lowry Bay as a SASM refers to Lowry Bay in its entirety, yet the mapping is specific to certain residential properties without supporting evidence provided to justify the mapping lines and inclusion of our property. The duck hunting grounds referred to were destroyed by the 1855 earthquake and the subsequent raising of the land. The rigour behind the geographical identification of the SASM is not robust and does not provide context to justify how the extent of the SASM was identified or why the fact that a duck hunting ground which no longer exists due to natural disasters warrants identification and protection under the SASM provisions.
15. The existing district plan already places limits on subdivision and use of land that ensure prohibition of tapu activities eg crematoria, abattoirs, cemeteries. Lowry Bay is already highly characterised by residential use and the requirement for resource consent should not extend to activities that are residential permitted as standard under the district plan. Private property owners should be allowed to develop their properties in accordance with the general provisions of the district plan. The proposed requirement for cultural consultation is unclear as to the extent, purpose and remedy and will place unwarranted and unquantified financial burden on the property owner. The council assessment of low risk offers no insight into the likelihood or consequence framework to assess this subjective view and it requires clarification as the risk to the property owner would appear high given the vagaries of the drafting.
16. There is no obvious or reasonable nexus between the size of a residential property build and the preservation and protection of an SASM. It is unclear whether the stated 200sqm limit applies to the footprint, site coverage or total floor area. This provision is likely to encourage development of 199sqm houses in order to avoid this burden of consultation which would be out of keeping with the area and detrimental to the amenity value of Lowry Bay. It is unclear how this is consistent with medium density residential areas and is of assistance in protecting areas of significance to Māori.

Relief sought

17. SASM for Whiorau Lowry Bay should be wholly removed from 11 Dillon street, and all other residential property within Lowry Bay.
18. The requirements of SASM-R4 (Category 2) should be removed from 11 Dillon street and all other residential property within Lowry Bay.
19. Amend SASM-R4 2(b) to permit residential buildings of 400 sqm in keeping with the majority of homes in this suburb which are large detached houses with driveways, garages, pools, tennis courts and outbuildings.
20. If the SASM category 2 zoning is not removed from residential property in Lowry Bay then greater clarity is required about both the criteria applied to establish the areas proposed significance and the remedies available to property owners in the event of consultation with Māori is required. Further clarity on how private property ownership rights intersect with SASM interests is also required. ie; SASM-R1 permits tikanga Māori on all sites within a SASM - how would this be undertaken on private property?

Decisions Requested

#	Chapter	Provision	Position	Reasons	Relief sought
1	Sites and Areas of Significance to Māori; and Schedule 6	Inclusion of 11 Dillon Street, Lowry Bay in the Whiorau Lowry Bay SASM Classification of the Whiorau Lowry Bay SASM as 'Category 2'	<ul style="list-style-type: none"> Oppose 	1. See 14-16 above	1. See 17-20 above