

RMA Form 5

Submission on publicly notified proposed district plan

Clause 6 of Schedule 1, Resource Management Act 1991

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To: Chief Executive, Hutt City Council

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

1. This is a submission from **J H LEGACY LIMITED** c/-Mr T. Verhoeven on the Proposed Lower Hutt District Plan 2025.
2. My email address for service is tverhoevennz@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, T. Verhoeven, am the Managing Director of J H Legacy Limited, the owner of the property located at 14 Waione Street, Petone (see **Figure 1**), being legally described as Lots 88, 89, 90 and 91 on Deposited Plan 384 as contained in Records of Title WN717/34 and WN717/35.

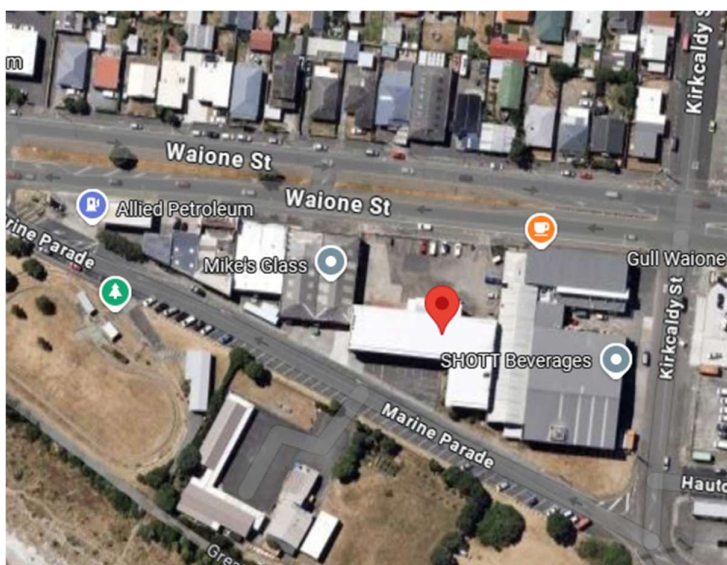


Figure 1: Location of 14 Waione Street, Petone (Source: Googlemaps)

8. 14 Waione Street, Petone is presently occupied by three tenants: McMahon Services NZ, Dive HQ Wellington, and Spencer Henshaw (see **Photo 1**).



Photo 1: 14 Waione Street, Petone

9. 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 14 Waione Street as a permitted activity under Rule GIZ-R3, subject to compliance with identified standards.
10. However, 14 Waione Street is also identified in the PDP as a “Site or Area of Significance to Māori - Hikoikoi Pā (Category 2)” (see **Figure 2**) which, if retained, would have a significant and detrimental effect on the potential [re]development of 14 Waione Street, and therefore on the site’s property value as a direct consequence of this proposed ‘regulatory taking’.



Figure 2: Proposed “Site or Area of Significance to Māori - Hikoikoi Pā (Category 2)” outlined in red, and 14 Waione Street outlined in black and white.

(Source: <https://eplan.huttcity.govt.nz/review/property/7701200/0/46>)

11. As detailed in the following table, J H Legacy Limited requests that 14 Waione Street and other misidentified properties are removed from being categorised as a Site or Area of Significance to Māori - Hikoikoi Pā.

Decisions Requested

For a detailed outline of the reasons for opposing the provision, refer to the attached supplementary sheet.

#	Chapter	Provision	Position	Reasons	Relief sought
1	Maps	The mapped outline of the “Site or Area of Significance to Māori - Hikoikoi Pā”.	Oppose	The inclusion of 14 Waione Street, Petone, and the neighbouring 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 is therefore inappropriate, given that this proposed ‘regulatory taking’ would directly and adversely affect the District Plan’s otherwise anticipated and enabled redevelopment opportunities for the properties, and consequently, the owners’ legitimate property interests. Furthermore, 14 Waione Street and the neighbouring properties are demonstrably not located on the historic Hikoikoi Pā site.	<p>At minimum, removal of 14 Waione Street and the other Waione Street 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 and preferable 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 and best alternative, the SASM boundary should align with and include only Hikoikoi Reserve/McEwan Park and those properties that border Great Harbour Way south of Hautonga Street (see the map in Figure 5 in Appendix I).</p>

SUPPLEMENTARY SHEET STATING REASONS FOR SUPPORTING THE SUBMISSION BY J H LEGACY 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 approximately three 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 McCleveryly 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 site or area of significance to Māori should much more closely represent/be aligned with the actual location of the historic Pā.

Note: this lack of evidence was confirmed in a 20 March 2025 email from Nathan Geard, Policy Planning Manager, Hutt City Council. The email was in response to an enquiry seeking information on the location of the Hikoikoi Pā. Mr Geard confirmed:

... I said I would look into whether we had any more detailed information that the location of the Site/Area was based on (for some sites in Lower Hutt we have detailed information from Cultural Impact Assessments that have been undertaken as part of new developments).

We do not have any assessments or more detailed information on the exact location of the Pā. We do have an old survey map (which is dated 1853 [sic]) that indicates that this area was a “Native Reserve”. But it is a very old, faded map that is really only indicative of the location of the Pā, and does not include detail on the exact location of the Pā or any other activities in the area.

As a result, the location of the Hikoikoi Pā is a bit more approximate than it would have been if we had more detailed information on its location.

Then, on 21 March, in an email response to another enquiry, Mr Geard wrote:

I can confirm that the SASM identified for the peninsula has been identified specifically for the Hikoikoi Pā, and no other taonga.

On 25 March, in response to a further follow-up enquiry, Mr Geard emailed a copy of the July 2017 Cultural Impact Report “*Seaview outfall - Temporary Discharges*” prepared by Raukura Consultants in association with Wellington Tenth Trust, Port Nicholson Block Settlement Trust, Te Atiawa Ki Te Upoko Te Ika A Maui Potiki Trust, Te Runanganui O Te Atiawa Ki Te Upoko O Te Ika Inc and Te Runanga O Toa Rangatira. In that report it refers to an area of sandspit on the western side of the Hutt River and states, “*At the base of the spit was Hikoikoi Pā probably located around where Marine Parade and McEwen Park is located. The Pā would have one frontage on the river with waka access to allow fishing of the river mouth*”.

Precluding the very possibility of 14 Waione Street being located on the historic Hikoikoi Pā site is the location given to Hikoikoi Pā on the “*Map of the Hutt Valley in 1848 compiled by Lance Hall in 1940 from old records*” found on page 32 of the cited Cultural Impact Report (which, for the purpose of this submission, has been overlaid onto Googlemaps – see **Figure 3**). The Pā’s location is marked by a dot symbol hugging the shoreline, after its name. It is clear from the mapping, which is to scale, and which maps the shoreline both from before the 1855 earthquake uplift (the dotted lines) and from before the land reclamation along the Port Nicholson foreshore, that the block of properties fronting Waione Street west of Kirkaldy Street are not located on the

old Hikoikoi Pā site, but are instead between a quarter and half a kilometre away from it, because, as stated in the cited sources, the three or so acre Pā was located further east, fronting the west bank of the Hutt River at the base of the former sandspit.

The larger Waiwhetū Pā, situated on the opposite side of the Hutt River on the left bank of the Waiwhetū Stream, is also marked by a dot symbol, though it is larger than the one marking the Hikoikoi Pā site.

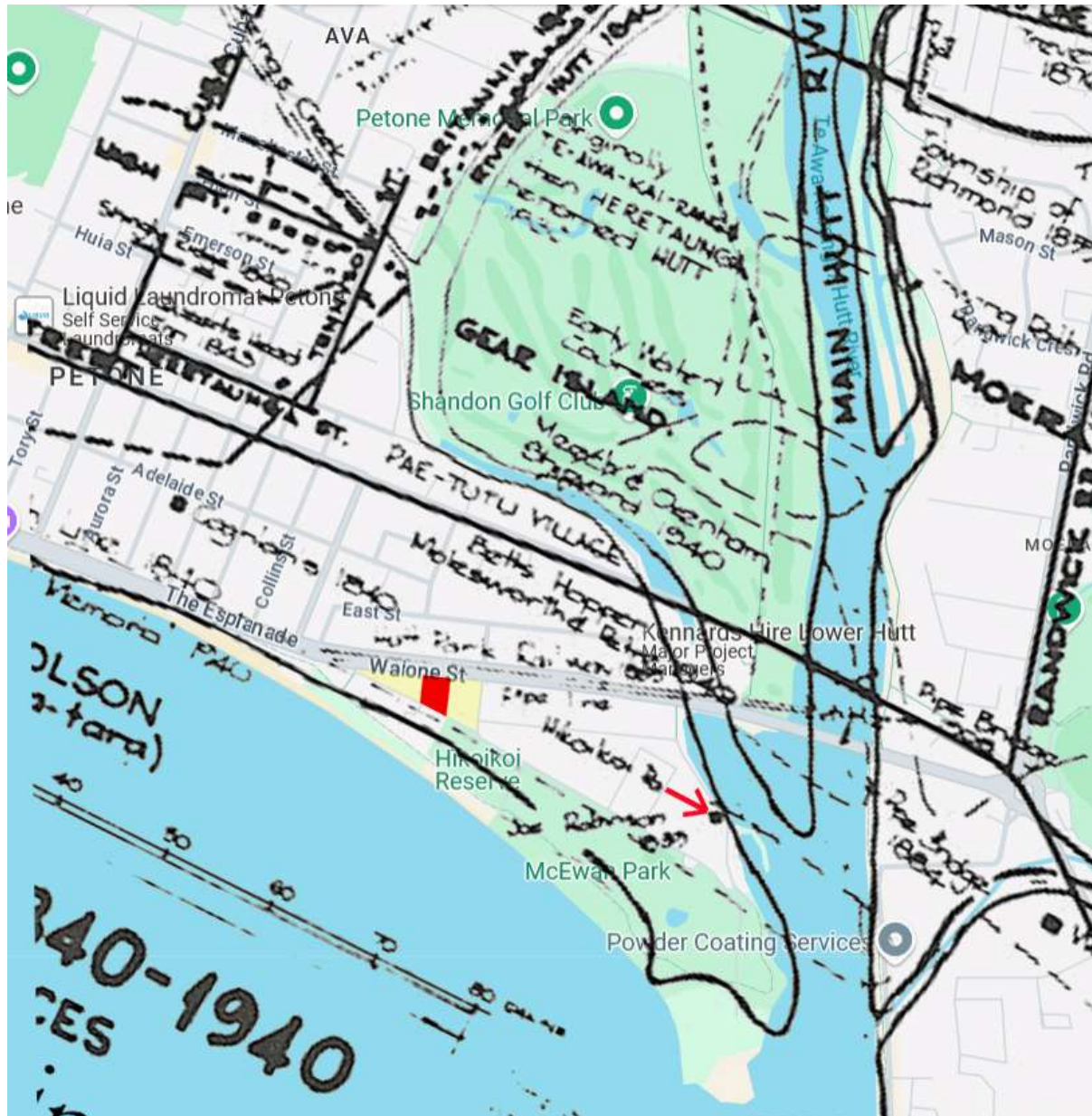


Figure 3: Detail of the “Map of the Hutt Valley in 1848 compiled by Lance Hall in 1940 from old records” overlaid onto Googlemaps, showing the location of Hikoikoi Pā (Pā’s name and black dot symbol original, red arrow added), with 14 Waione Street highlighted red, and the rest of the west of Kirkaldy Street block highlighted yellow.

Corroborating Hall's identification of Hikoikoi Pā's location is the Native Reserve area relating to the Pā site marked out in an 1852 map by J.W. Pinneger, found on page 68 of *Petone: A History* by Susan Butterworth (see **Figure 4**, which also overlays the map onto Googlemaps). This is the same map referred to by Mr Geard in his 20 March email. The larger peninsula in that map, which is also to scale, is consistent with what is written on page 76 of the Section 32 Evaluation Report: *"Much of the peninsula where the pā was located has been lost to coastal and river erosion"*. The two meter uplift from the 1855 quake significantly changed the Hutt River's flow, which in turn caused the significant erosion and washing away of much of the Hikoikoi Peninsula.

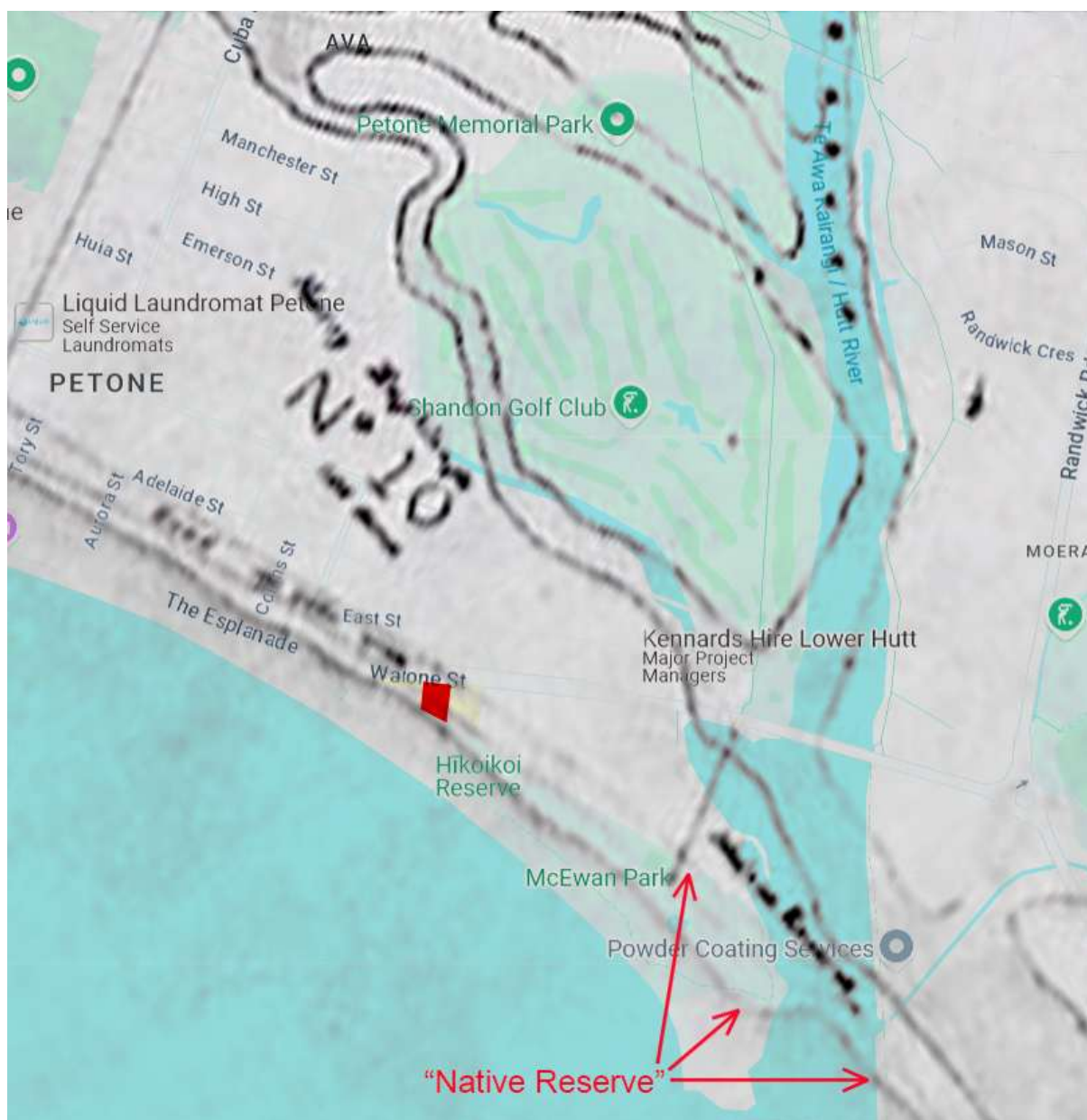


Figure 4: Detail of J.W. Pinneger's 1852 surveyor's map of the Hutt River area overlaid onto Googlemaps, demarcating the area set aside as a Native Reserve on the original peninsula where Hikoikoi Pā was located (red text and arrows added), with 14 Waione Street highlighted red.

It can be deduced from Hall's and Pinneger's maps, and the other facts tabled, that it is likely at least part of the site on which Hikoikoi Pā sat is now under water, with the remainder (if there is a remainder) located where the Cultural Impact Report says it probably is: at the eastern end of the peninsula where McEwan Park meets Marine Parade.

The Cultural Impact Report also says on page 18 that, following a population decline, the people of Hikoikoi Pā shifted to Waiwhetu Pā on the other side of the Hutt River. This is consistent with the abandonment of the Hikoikoi Pā prior to its—or perhaps part of it—being washed away. Nothing in either map, the Cultural Assessment Report, or the Section 32 Evaluation Report, suggests that the Hikoikoi Pā was located where 14 Waione Street now is. All four evince that the Pā was *not* located where 14 Waione Street is today.

2. The northern SASM boundary for Hikoikoi Pā appears arbitrary, encompassing numerous commercial properties. This is evidenced by the boundary's alignment with a long, straight stretch of Waione Street, a road that did not exist when the Pā was occupied. This approach to identifying the SASM boundary is inappropriate because it lacks objectivity and rigor, and gives the impression of being motivated by administrative convenience—or worse—rather than by genuine historical accuracy or proper regard for the rights and interests affected.

Because the precise footprint of the Hikoikoi Pā is not known, an appropriate approach to delineating all possible locations for it on a map is to mark a radius from the Pā's known location (per Hall's map in **Figure 3** above). Reasonable assumptions, such as the Pā being "*over three acres in size*" (using four acres as a conservative estimate), and the Pā's length-to-width ratio almost certainly not exceeding 2:1, can be used to determine the appropriate radius. Based on these assumptions, J H Legacy Limited estimates that a 180m radius around the known location of the Pā delineates all possible locations for the Pā's footprint to a very high degree of certainty. This radius covers twenty-five acres (including over water—see the map in **Figure 5** in Appendix I), and leads one to arrive at the proposed SASM boundary in the second and best alternative specified in the decision request on page 4 of this submission.

3. If the Council has relied principally (if not solely) on iwi and hapū to identify the extent of the Sites and Areas of Significance to Māori, as is implied by what is written in the Sites and Areas of Significance to Māori chapter of the PDP (namely, "*The location of each site or area has been determined with the guidance and direction of tangata whenua*"), then, in the opinion of J H Legacy Limited, there is a perceived conflict of interest on the part of iwi and hapū—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 expectations of property owners now potentially subject to the Sites and Areas of Significance to Māori provisions, including most of the SASM chapter's objectives, policies, and rules, but especially:
 - SASM-O3, which proclaims that tangata whenua have "self-determination" or "rangatiratanga" (translated in the Māori Dictionary as "[the] right to exercise authority" and "ownership") over Sites and Areas of Significance to Māori;
 - the requirement for resource consent for a Restricted Discretionary activity under Rule SASM-R4.2 for any new building with a floor area exceeding 200m², and for any addition or alteration to a building or structure within an industrial/commercial zone exceeding 200m²; and
 - SASM-P7 and P9, which onerously prescribe that the resource consent process for a Restricted Discretionary activity must consider the extent to which the property owner has "engaged with" and "worked with tangata whenua" to ensure "that the spiritual and cultural values of the site are protected".

4. The collective of iwi connected to the Hikoikoi Pā received full and final settlement for all historical grievance claims with the Port Nicholson Block (Taranaki Whānui ki Te Upoko o Te Ika) Claims Settlement Act 2009.
5. There are no Statutory Acknowledgements for Hikoikoi Pā.
6. 14 Waione Street is historically and geographically disconnected from the Hikoikoi 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. This point is consistent with SASM-P9.3(a), which recognises that the cultural values of a site are lost through modification of the landscape.

In summary, the principal point of this opposing submission is the lack of specific, verifiable evidence connecting the property at 14 Waione Street, Petone, to Hikoikoi Pā to support or justify its inclusion as a Site or Area of Significance to Māori, to the significant detriment of the property owner's reasonable and legal expectations to develop or redevelop 14 Waione Street in accordance with the provisions for the General Industrial Zone. The onus of proof should rest squarely with the Council to establish, with far greater precision and objectivity, the locations of taonga. It should not fall on private property owners—merely in the vicinity of where taonga is alleged to have been—to prove that such taonga was not located on their land, as J H Legacy Limited has done for 14 Waione Street in this submission.

Submitted by email by:

T. Verhoeven
Managing Director
J H Legacy Limited (owner of 14 Waione Street)

Date: 29 April 2025

APPENDIX I: RADIUS AROUND KNOWN LOCATION OF HIKOIKOI PĀ DELIMITING FOOTPRINT POSSIBILITIES

Assumptions:

- 1) Maximum Pā size of 4 acres (per McCleverty's "over three acres" estimate)
- 2) Maximum Pā length-to-width ratio of 2:1
- 3) At least part of the Pā was located where Lance Hall's map marker positioned it (see **Figure 3**)
- 4) Pā fronted the old Hutt River at the base of a sandspit, as stated in the cited Cultural Impact Report.

Note: keep in mind that the original peninsula on which the Pā sat was much larger and jutted out eastward into the mouth of the Hutt River (see Pinneger's map in **Figure 4**).

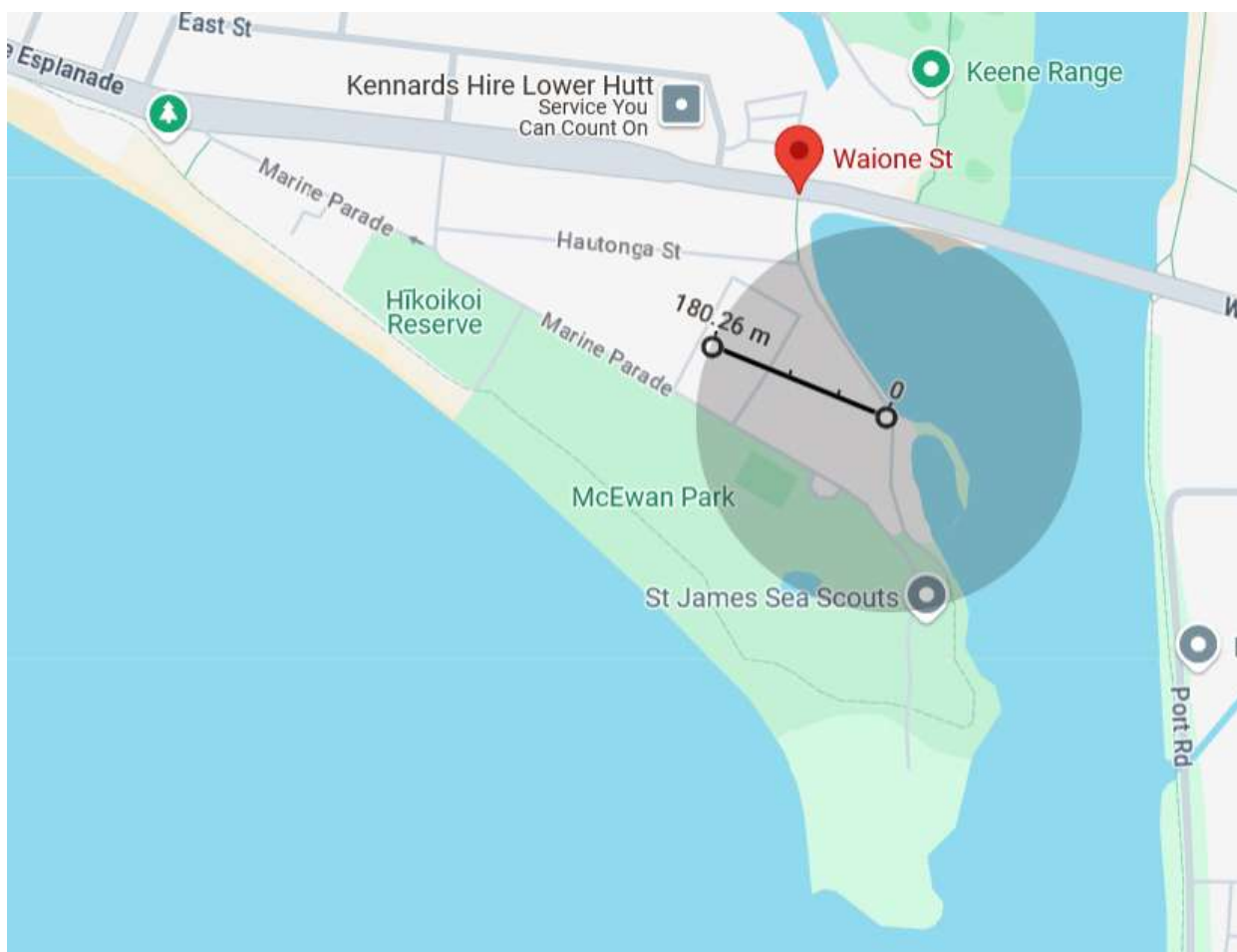


Figure 5: Radius around the known location of Hikoikoi Pā delimiting possible footprint locations (Source: Googlemaps).

APPENDIX II: ORIGINAL MAPS (DETAILS)

