

Proposed District Plan submission form

Clause 6 of the First Schedule, Resource Management Act 1991.

Feel free to add more pages to your submission to provide a fuller response.

Remember
submissions
close on Friday
6 August 2021
at 5pm.

To: Central Hawke's Bay District Council			
1. Submitter details			
Full Name	Last <i>Munro</i>	First <i>Jill</i>	
Company/Organisation (if applicable)	<i>Kairakau Lands Trust</i>		
Contact Person (if different)	<i>Stella August</i>		
Email Address	<i>kairakaulands trust@gmail.com</i>		
Address	<i>PO Box 477 Naipukuruan</i>	Postcode	<i>4242</i>
Phone	Mobile	Home	Work
2. This is a submission on the Proposed District Plan for Central Hawke's Bay			
3. <input type="checkbox"/> I could <input checked="" type="checkbox"/> I could not – gain an advantage in trade competition through this submission (Please tick relevant box)			
If you could gain an advantage in trade competition through this submission please complete point 4 below:			
4. <input type="checkbox"/> I am <input type="checkbox"/> I am not – directly affected by an effect of the subject matter of the submission that:			
(a) adversely affects the environment; and (b) does not relate to trade competition or the effects of trade competition. (Please tick relevant box if applicable)			
Note: If you are a person who could gain an advantage in trade competition through the submission, your right to make a submission may be limited by clause 6(4) of Part 1 of Schedule 1 of the Resource Management Act 1991.			
5. <input checked="" type="checkbox"/> I wish <input type="checkbox"/> I do not wish – to be heard in support of my submission in person (Please tick relevant box)			
6. <input type="checkbox"/> I will <input checked="" type="checkbox"/> I will not – consider presenting a joint case with other submitters, who make a similar submission, at a hearing. (Please tick relevant box)			
7. Do you wish to present your submission via Zoom? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
8. Please complete section below (insert additional boxes per provision you are submitting on):			
The specific provision of the plan that my submission relates to:			
<i>Please see the attached submission</i>			
Do you: <input type="checkbox"/> Support <input type="checkbox"/> Oppose <input type="checkbox"/> Amend (Please tick relevant box)			
What decision are you seeking from Council?			
Reasons:			
Please note: All submissions will be treated as public documents and will be made available on Council's website. However, you may request that your contact details (but not your name) be withheld. If you want your contact details withheld, please let us know by ticking this box. <input type="checkbox"/>			



The Trustees
Kairakau Lands Trust
PO Box 477
Waipukurau 4242

6 August 2021

Mayor Alex Walker
Central Hawkes Bay District Council
PO Box 127
Waipawa 4210

Tēnā koe e te Koromatua

RE: CENTRAL HAWKES BAY DISTRICT COUNCIL DRAFT DISTRICT PLAN – FORMAL
SUBMISSION

The Kairakau Lands Trust would like to thank you Mayor Alex Walker, your Chief Executive Monique Davidson, and staff for meeting with us on Friday 23 June 2021. We really appreciated the chance to raise our concerns and discuss these with you 'kanohi ki te kanohi'.

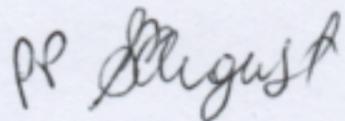
As we advised at that hui, please accept our formal submission on the Central Hawkes Bay District Council Draft District Plan.

We would be happy to discuss anything in this formal submission in person with you and your staff. Please contact us at the postal address above or via email correspondence to both the addresses below.

Kairakau Lands Trust kairakaulandstrust@gmail.com •
Stella August smaugust11@gmail.com

We look forward to hearing from you soon.

Nga mihi mahana,



Jill Munro
Chairperson Kairakau Lands Trust

CENTRAL HAWKES BAY
PROPOSED DISTRICT PLAN

SUBMISSION

BY

KAIRAKAU LANDS TRUST
6 AUGUST 2021

Please see our comments and feedback below, identified by Part, Section, Sub-section and subsequent heading.

PART 2: DISTRICT-WIDE MATTERS

HISTORICAL AND CULTURAL VALUES

HISTORIC HERITAGE

Introduction

The Introduction of this Section of the Central Hawkes Bay District Council (CHBDC) Proposed District Plan (referred to as 'the Plan') encourages landowners to search the New Zealand Archaeological Association (NZAA) database (ArchSite) for 'the latest site record information'. We would recommend that the wording be changed slightly to 'the latest recorded site information' to emphasise that not all sites are recorded. Caution should be advised for any sites located within 100m of a specific location, as the usual GPS errors and biases occur within ArchSite.

Principle reasons

One of the reasons stated for adopting the policies and methods is 'unrecorded archaeological sites may be discovered during earthworks' and applicants are encouraged to seek advice prior to earthworks. We would suggest the following amendment to highlight that preventative actions are better than long-term damage.

'Unrecorded archaeological sites are usually accidentally discovered during earthworks and irreparably damaged. Therefore, it is important that applicants seek advice at an early stage when earthworks are proposed, especially in areas known to be associated with pre-1900 activity'.

SITES AND AREAS OF SIGNIFICANCE TO MĀORI

Introduction

The Introduction of this Section of the Plan has no reference at all to the legislation that provides for the protection of sites of significance to Māori in New Zealand, the Heritage New Zealand Pouhere Taonga Act 2014 (HNZPT Act). It is mentioned in detail in the Introduction of the Historic Heritage Section of the Plan but is completely omitted here.

This Section identifies the specific obligations of the Resource Management Act 1991 (RMA) to Tangata Whenua but fails to note the purpose to 'promote the identification, protection, preservation, and conservation of the historical and cultural heritage of New Zealand' and one of the principles of the HNZPT Act 'the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tūpuna, wāhi tapu, and other taonga'. We feel it is essential to reference the HNZPT Act here to make it abundantly clear that all sites of significance to Māori are protected in New Zealand and to ensure that this Section of the Plan

accurately portrays legislative protection of sites of significance to Māori if it is read in isolation of other sections of the Plan.

Additionally, the NZAA database should also be mentioned here in this Section for the same reasons as above.

Issues

The Plan identifies the Issue as the 'Loss of Sites and Areas of Significance to Māori' and this is described as 'The degradation or loss of wāhi tapu, wāhi taonga and sites of significance over time, and implications of this for the relationship of Tangata Whenua with their ancestral lands'. The Explanation goes on to state that 'Protection of site values and areas of cultural and spiritual significance to Tangata Whenua requires identifying and mapping these sites and areas and understanding their values. This process is led by Tangata Whenua who hold this information and knowledge'.

We believe this paragraph and way of thinking is fundamentally wrong. Identification and mapping **does not** guarantee protection of waahi taonga, and it definitely does not lead to understanding their value. Tangata Whenua cannot lead this process, especially when so little of our ancestral land remains in our ownership. We think engagement should be led by Council, as Tangata Whenua hold this information and knowledge and values cannot be fully expressed on a map.

The Objectives and Policies in this Section appear to recognise that the Council will meet their specific obligations in relation to Tangata Whenua and our relationship with our ancestral lands, water, sites, wāhi tapu, and other taonga.

Rules

The following image was copied from this Section of the Plan and shows two of the six Rules. It identifies the Zone, Activity Status and the Assessment Matters for Discretionary Activities.

SASM-R1 Maintenance and enhancement of wāhi tapu, wāhi taonga or sites or areas of significance identified in SASM-SCHED3		
All Zones	1. Activity Status: PER Where the following condition is met: a. No activity is to destroy, damage or modify a wāhi tapu, wāhi taonga or site of significance, including any excavation, modification or disturbance of the ground containing the wāhi tapu, wāhi taonga or site of significance.	2. Activity status where compliance not achieved: RDIS Matters over which discretion is restricted: a. SASM-AM1
SASM-R2 Earthworks associated with burials within an existing urupa identified in SASM-SCHED3		
All Zones	1. Activity Status: PER Where the following conditions are met: N/A	2. Activity status where compliance not achieved: N/A

We have a few questions/ concerns regarding this table.

- 1) Why does it have 'permitted' next to the activity status? If the site is a wāhi tapu, wāhi taonga or sites or areas of significance (as it says in Rule), **any** activity is prohibited as per Section 5 (2)(e) of the HNZPT Act which prohibits 'the modification or destruction of an archaeological site'. Is this unlawful?

- 2) The only condition that would allow any activity to occur at a wāhi tapu, wāhi taonga or sites or areas of significance is if an application was made to Heritage New Zealand Pouhere Taonga (HNZ) under Section 44 of the HNZPT Act for an authority 'to undertake an activity that will or may modify or destroy the whole or any part of any archaeological site or sites'. Again, is this unlawful?
- 3) This applies for all rules SASM-R1 to SASM-R6.
- 4) In regard to SASM-R6, it is recommended practice to apply for an authority in any circumstance within 100m of a recorded archaeological site.

Assessment Matters

Point 2 of the Assessment Matters should refer to the HNZPT Act. Any activity is prohibited if it is a wāhi tapu, wāhi taonga or sites or areas of significance.

Methods

We are happy to see Method SAM -M3 Partnership between Council and Tangata Whenua. We hope that this will allow us to work with Council to;

- 1) Identify a cultural overlay of our rohe on planning maps
- 2) Consult and engage whenever there is any planned development or land use change that has the potential to impact on our waahi taonga
- 3) Protect waahi taonga that have not been recorded or identified

Consultation is encouraged with Method SASM-M4 between the Council and Heritage New Zealand Pouhere Taonga. As an additional source of information about historic and cultural sites, the NZAA database should be referred to here.

PART 2: DISTRICT-WIDE MATTERS

GENERAL DISTRICT-WIDE MATTERS

EARTHWORKS

The Plan states that 'whilst integral to development, earthworks can have adverse effects on the environment if not appropriately managed'. Earthworks are the greatest threat to cultural sites. However, there are no specific objectives or policies that relate to ensuring that cultural sites are protected in this Section of the Plan.

We would like to see Council employ earthworks contractors who have had sufficient training or a certain level of competency in regards to recognising sites of significance to Māori.

PART 2: DISTRICT-WIDE MATTERS

SUBDIVISION

SUBDIVISION

We note the list of potential adverse effects of subdivision in the Introduction and would like to highlight the following ones as important to us as Tangata Whenua.

- the inefficient use of finite resources, including the loss of highly productive land through urbanisation and inappropriate rural development;
- the consequential physical effects of earthworks and vegetation clearance associated with the construction of building platforms, recontouring and provision of infrastructure, including roads, driveways and footpaths, and associated changes to stormwater runoff patterns, water quality and potential adverse effects on visual amenity, natural features and landscapes, and ecological values;
- damaging or destroying sites of cultural and heritage value;
- degrading amenity values that people enjoy;
- adversely affecting people's health and safety;
- degrading the natural character of the coastal environment, wetlands, lakes and rivers and their margins;
- degrading the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga;

Change of land use, through subdivision, especially of farmland, puts many of our cultural sites at serious risk. A cultural assessment should take place during the subdivision consent process to ensure that sites of significance to Māori are identified before any parcel of land changes ownership. As a minimum requirement, NZAA ArchSite database should be checked. Subdivisions within 100m of recorded site should be checked by an archaeologist or suitably experienced person. Subdivisions within an area of known Māori occupation should be checked by an archaeologist or suitably experienced person in every instance. Any areas where cultural activity is suspected should be checked by an archaeologist or suitably experienced person.

We cannot stress this enough! The current processes are not adequate at protecting our cultural sites and landscapes. Please consider the following example. Note; we only use this as an example to illustrate our point, we mean no offence to the current owners or previous owners), and have no specific details about the subdivision of the property.



While the location of the property above falls within the boundaries of the HDC District Plan, it shows how a piece of land was subdivided from a farm for a lifestyle property. If you look closely, you will notice a terrace near the summit of the hill behind the house, and lines running down the slope of the hill, evident more clearly on the right side of the slope. These are stone rows used in Māori gardening. There are very few gardening sites in Hawkes Bay and yet here is one, at threat from subdivision and development. This Māori garden is recorded on ArchSite and technically, the subdivided parcel of land doesn't appear to be on the archaeological site. As we said earlier, we do not know any details of this subdivision, we do not know if a cultural assessment took place and if the earthworks were monitored. We would hope so, because this archaeological site is a part of a cultural landscape, these gardens did not appear here in isolation of other traditional customs and practices in the surrounding area. We cannot rely on points/ stars on a map as do not reflect the full picture, the actual cultural landscape and the entire environmental context. Additional steps are needed within the current subdivision process to ensure that cultural sites and landscapes are safeguarded against inappropriate subdivision and subsequent development.

PART 2: DISTRICT-WIDE MATTERS NATURAL ENVIRONMENT VALUES

SIGNIFICANT NATURAL AREAS (SNAS), OUTSTANDING NATURAL FEATURES (ONFS) AND HIGH NATURAL CHARACTER AREAS (HNC)

Natural features and landscapes are inherently important to Māori for many reasons.

The main threats (listed in the Technical Reports) to the ONF, ONL, SNA and HNCAs in areas of importance to the KLT are;

- Pine plantations
- Earthworks
- Buildings
- Pests, and
- Weeds

After reviewing the maps that we have been provided and online, we feel that we don't need any of these designations on our land. We are fully aware of the threats listed above, and the risk they pose to our natural environment. The KLT is already undertaking tasks to preserve and protect ALL our land. We do pest and weed control, we monitor earthworks, we are retiring land at high risk of coastal erosion and planting native vegetation. Kaitiakitanga - we do this because we want to see our land utilised sustainably now and in the future.

This topic has not been discussed in detail when we have met in the past. There are many considerations, and these are hard to summarise succinctly in a submission. We would welcome a hui to discuss this further.

PART 2: DISTRICT-WIDE MATTERS STRATEGIC DIRECTION

TANGATA WHENUA

The Mihi on Page 1 of the Plan and the first page of this Section Tangata Whenua has spelling and capitalisation errors.

Issues, Objectives and Policies

The only comment we would like to make is on:

TW-P7 Where there is no agreed procedure between Tangata Whenua and the resource user, to implement procedures in conjunction with the Tangata Whenua when any burial sites or Māori artefacts are unearthed or disturbed.

Our concern is that this policy with its current wording, is incorrect. If a Māori artefact (taonga tūturu) is unearthed or disturbed, it automatically falls under Part 2, Section 11 of the Protected Objects Act 1975 and the process to follow is defined. And while there are several pieces of legislation relating to Kōiwi Tangata, HNZ has produced a detailed guide describing the best practice to follow in this instance. It is unclear if the actual intent of this policy is being accurately portrayed.

Methods

TW-M4 District Plan 1. Wāhi Tapu, Wāhi Taonga and Sites of Significance

We would suggest the last sentence of the page read as follows:

Under the Act, it is an offence to modify or destroy **any** archaeological site without an Authority from Heritage New Zealand Pouhere Taonga.

Principle Reasons

An effective partnership that develops and grows based on strong communication and commitment between Council and Tangata Whenua is stated clearly at the forefront of this Section. This is integral to us, and we have had this first-hand with our encounters with the Mayor, Council Senior Management Team and staff recently.

We understand that this Section is to provide guidance and methodology within the Plan to recognise the interests of Tangata Whenua. We feel, some of the following discussion does not accurately reflect the complexity and variable nature of working with whānau and hapū. When considering the protection of sites of cultural significance many factors need to be considered, such as cultural values, intellectual property and capacity (to name just a few). While we understand that identifying sites in the Plan is helpful to Council, it does not cater to all instances and is not all-encompassing to address all the needs of Tangata Whenua. Other options and processes need to be considered to ensure the protection of sites of significance to Māori.

PART 2: DISTRICT-WIDE MATTERS

GENERAL DISTRICT-WIDE MATTERS

PAPAKĀINGA AND KAUMĀTUA HOUSING, AND ASSOCIATED MARAE-BASED DEVELOPMENT

We are unable to comment on this Section in detail as we have not undertaken a development of this sort ourselves. However, it is something we may consider in the future and we would like to ensure that the provisions in the Plan allow us to meet our needs. This Section appears to be very similar to the Papakāinga provisions in the Hastings District Council (HDC) District Plan and many Papakāinga developments are underway there.

We are happy to see the following policy included.

PKH-P2 Allow for Papakāinga development and Kaumātua housing on General Title where there is a historical ancestral connection to the land and an expectation that the land will remain in Māori ownership in the long term.

This is significant, especially for whānau and hapū who have been alienated from their ancestral land.

PART 1: INTRODUCTION AND GENERAL PROVISIONS **NATIONAL DIRECTION INSTRUMENTS**

NATIONAL ENVIRONMENTAL STANDARDS

While we have been led to understand this is a 'grey' area between central and local government, we note that 'if an activity does not comply with an NES, it is likely to require a resource consent', and the 'NESs must be observed and enforced by local authorities'.

Changes in land use are of particular concern to us, particularly around afforestation and the unprecedented sales of farmland to be converted into forestry. The National Environmental Standards for Plantation Forestry provide a nationally consistent set of standards to manage the environmental effects of plantation forestry activities. There are specific responsibilities and functions for central and local authorities and we would like the either the Regional or District Council to take responsibility for the effect of this activity on archaeological sites (as a part of the environment).

Thank you for providing us with the opportunity to submit our views on the CHBDC Proposed District Plan.

Please accept our submission and feedback and we look forward to hearing from you soon.

Nga mihi,

Trustees of the Kairakau Lands Trust