

IN THE MATTER OF

THE RESOURCE MANAGEMENT ACT, 1991

AND IN THE MATTER OF

THE PROPOSED HASTINGS DISTRICT PLAN, 2013

A SUBMISSION FROM

NGĀTI KAHUNGUNU IWI INCORPORATED

Submitter:

Ngāti Kahungunu Iwi Incorporated

Address for Service:

P O Box 2406

Hastings

4153

Phone: 06) 876 2718

Fax: 06) 876 4807

Att: Dr Adele Whyte

adele@kahungunu.iwi.nz

To:

Hastings District Council
Private Bag 9002
HASTINGS
4156

districtplanreview@hdc.govt.nz

Introduction:

1. Ngāti Kahungunu Iwi Incorporated (NKII) is an iwi authority for Resource Management Act purposes, with the third largest iwi population and the second largest tribal rohe in New Zealand. Our coastline extends from Paritu near Te Mahia in the north to Turakirae (Palliser Bay) in the south and includes the Hastings District.

The mission statement of Ngāti Kahungunu Iwi Incorporated is:
“To enhance the mana and well-being of Ngāti Kahungunu.”

2. The iwi authority maintains an independent position to represent and advocate the collective interests, rights, values, beliefs, cultural priorities and practices of Ngāti Kahungunu whanau, hapū and iwi. This includes the responsibility and obligation as kaitiaki to care for and protect the natural environment for future generations.

3. Although Hastings District Council (HDC) has not consulted directly with the iwi authority over all sections of the proposed Hastings District Plan (proposed plan or PHDP) we understand that they have presented elements of the proposed plan to the HDC-Joint Māori committee and the runanganui at Te Taiwhenua o Heretaunga.

Preliminary Issues:

4. The proposed plan is the culmination of a comprehensive in-house review by HDC planners and staff. The current proposal for local government amalgamation could mean a variation or plan change to the district plan will be necessary within a few years if parts of the Rangitikei or Taupo districts are brought into the Hastings district.

5. Some tangata whenua groups have only recently resolved Environment Court appeals related to the Rangitikei District Plan which is now operative. This has taken over 4 years to complete and we ask that the resolution of the Rangitikei plan and the benefits derived from it for tangata whenua within Hawke’s Bay do not get unraveled through the PHDP or its provisions. Treaty claim processes and settlements also should not be impeded or undermined through proposed plan provisions, and we expect Hastings District Council decisions will not create undue prejudice or further Treaty grievance.

6. Proposed Plan Change 5 to the Regional Policy Statement now includes a tangata whenua objective requiring greater consideration for tikanga Māori values and interests. Although not currently operative, this objective is beyond challenge and the PHDP should reflect the directions from this provision where relevant.

7. Commentary is provided in 1.1.3.3 of the proposed plan of the environmental impacts expected from its implementation in terms of sustainability as defined by the Resource Management Act, 1991 (RMA or the Act). We hope that this attitude is translated through into decision-making on the proposed plan and in particular with respect to: -

- The management of waahi tapu and waahi taonga
- Subdivision, use and development over the unconfined Heretaunga aquifer
- The management of landscapes of cultural significance to tangata whenua
- The minimisation of exceptions to the proposed bottom line provisions for the NPS FW insofar as they affect council infrastructure, utility networks, and tangata whenua interests/priorities

8. The third paragraph of 1.1.4.4 (c) alludes to tangata whenua rights and interests connected to Papakāinga, Waahi tapu and Marae. We consider it imperative that HDC does not exclude consideration of tangata whenua rights and interests in many other provisions in the proposed plan, given the requirements of RMA section 8 and the Treaty principle of active protection.

9. There is reference throughout the proposed plan to “*the Hawke’s Bay*” which is grammatically incorrect. We ask that this be amended to either “*the Hawk’s Bay*” in recognition of Te Haaro o Te Kahu, or “*Hawke’s Bay*” which is now in common usage.

Plan Provisions and amendments

2.4 Urban Development:

10. The Anticipated Outcomes for Urban Development at 2.4.2 only address tangata whenua issues that relate to Papakāinga development. The plan needs more direction towards recognising and providing for all tangata whenua interests within the district that relate to urban subdivision, land use and development, in addition to HDC’s discharges to land and water. The HPUDS contained a key principle of: -

“Mana whenua values and aspirations are recognised and provided for”

But the anticipated outcomes for Urban Development fall short of this. The term “mana whenua” may also create problems and inconsistency in that it is included in section 2 of the RMA (Interpretation) but not included in the main body of the Act, so its influence within statutory planning constructs is restricted.

We ask for the replacement of “mana whenua” with “tangata whenua” throughout the proposed plan where it is more appropriate for advancing the interests of tangata whenua.

Add new clause to the Anticipated Outcomes as: -

“UD6 – Tangata whenua values and aspirations related to urban development are recognised and provided for.”

11. Urban development has the potential to contaminate parts of the unconfined Heretaunga Aquifer system which will present health risks to domestic and commercial users of this resource. In addition, the hydraulic connection between the unconfined and semi-confined aquifer layers mean that adverse effects can spread from the rural and plains zones into the peri-urban and urban areas. This interconnectedness needs to be acknowledged in provisions relating to urban development. The unconfined aquifer is also classified as a sensitive catchment in the regional plan, which supports more careful management than other areas. The Regional Policy Statement (RPS) contains Objective 21: - “No degradation of existing groundwater quality in the Heretaunga Plains and Ruataniwha Plains aquifer systems.” This implies acknowledgment of the aquifer systems as a whole, and recent HBRC decisions on groundwater include reference to the interconnectedness of groundwater systems.

Retain operative policy AQP4 as UDP4A:

“UDP4A Control the use and storage of chemicals, organic matter and fertilisers on land overlying the Heretaunga Plains Unconfined Aquifer to protect against the risk of contamination of the groundwater from inappropriate management practices and accidental spills.”

Retain operative policy AQP3 as UDP4B:

“Activities undertaken over the Heretaunga Plains Unconfined Aquifer will be specifically evaluated to ensure that appropriate mitigation measures are put in place to protect the aquifer from any adverse effects of these activities.”

This would support the NPS FW and help give effect to the operative RPS Objective 21.

Add new clause to the Anticipated Outcomes as: -

“UD7 – The Heretaunga Unconfined Aquifer System is protected from adverse effects of Urban Development.”

12. Add new clause to the explanation section similar to: -

“The Heretaunga aquifer system is a significant resource to the Hastings District and urban development in the district needs to recognise this.”

13. The Papakāinga section of 2.4 appears to restrict Papakāinga development to Māori Land. This infers that any multiple- owned General Land that is already owned by Māori or acquired by Māori through Treaty settlement redress or related processes will not qualify for Papakāinga development unless it is changed to Māori Land. This appears to be a breach of Article III of the Treaty, and an impediment to Māori development.

Amend the Papakāinga portion of section 2.4 to read:

“Papakāinga (Section 21.1): The District Plan provides for Papakāinga development on Māori land under the Te Ture Whenua Māori Act 1993 or land owned by Māori under General Title. This Method addresses the particular aspirations of the Hastings District’s mana tangata whenua who wish to reside on their ancestral-lands.”

14. Recent occurrences in the coastal areas of the district are a result of climatic trends with more frequent storm events and cyclonic weather patterns. These have been devastating to parts of the coastline within the Hastings District. Hastings District Council (HDC or council) needs to acknowledge climate change and its potential effects.

Amend the Coastal Environment Strategy part of section 2.4 so that climate change is a priority matter that will be considered: -

“The HPUDS study recognised significant niche markets for continued residential development in the coastal margins. In examining urban development issues on the coast, the Council will take into account the effects of climate change, and have particular regard to directions established in the NZ Coastal Policy Statement, and the Hastings Coastal Environment Strategy.”

We also seek consequential amendments to other parts of the district plan where provisions refer to management of land use in the coastal margins and coastal environment.

2.5 Transportation Strategy:

15. 2.5.2.6 endeavours to protect roading infrastructure from the effects of adjoining land use. There is also a need to protect existing land use from the effects of new roading infrastructure, as this could create reverse sensitivity effects on existing residential areas or existing agricultural activities.

Add new clause: -

“2.5.2.6A Protecting existing land use from the effects of new roading infrastructure

The planning and placement of new roading infrastructure or the upgrading of existing roading infrastructure will have particular regard to adverse effects on existing land use and development on adjacent properties. Significant adverse effects of new infrastructure and its use, on adjacent properties will be avoided, remedied or mitigated.”

Add a consequential amendment to 2.5.3 Anticipated Outcomes

“TS5 Reverse sensitivity effects on existing land use will be avoided, remedied or mitigated.”

16. Add new clauses to 2.5.5 as follows:

“Iwi and hapū planning documents

Hastings District Council will continue to work with the iwi authority Ngāti Kahungunu Iwi Incorporated and relevant Treaty claimant entities, and take into account iwi and hapū planning documents when planning for or constructing new roading infrastructure and associated works”, or words to like meaning and effect.

2.7 Coastal Environment Strategy:

17. Section 2.7.2.6 “Protecting Tangata Whenua Values in the Coastal Environment” provides a commentary on Iwi values but it does not reference hapū or provide for the range of cultural values and interests related to coastal resources that contribute to the cultural well-being of tangata whenua. Council’s only remedy for addressing or recognising and providing for tangata whenua values appears to be more consultation. The Treaty principle of “active protection” requires a more positive response. With respect, HDC has been consulting with tangata whenua for decades now and should have an understanding of Iwi/hapū values and interests in relation to the coastal environment. The PHDP needs to incorporate these into its management of the coastal environment. The New Zealand Coastal Policy Statement (NZCPS) also provides direction to local government related to tangata whenua interests.

Amend provisions in the PDHP to recognise and provide for the values and interests of tangata whenua in the management of subdivision, land use and development within the coastal environment.

Add a new clause to section 2.7.3 Anticipated Outcomes: -

“CE5 Iwi and hapū values and interests will be recognised and provided for in council’s management of the coastal environment.”

Amend Policy CEP3: -

“Establish appropriate provisions within the Hastings District Plan to address the effects caused by climate change and natural coastal processes in the Coastal Environment.”

Make a consequential amendment to the explanation for this policy.

18. Policy CEP5 is also likely to address only a few of the interests of tangata whenua and coastal hapū within the coastal environment. The structure of the policy is weak in terms of tangata whenua interests.

Amend Policy CEP5: -

“Ensure the protection of the characteristics of significance to tangata whenua, the natural and cultural character and features of the coastal margin, identified in the Coastal Environment.”

Make a consequential amendment to the explanation to reflect the incorporation of tangata whenua values and interests in the policy.

19. Section 2.7.5 Methods does not include a mechanism to provide connection to and appropriate consideration for areas of cultural significance to tangata whenua apart from reference to the Waahi Tapu section of the PHDP. Before the outstanding natural features were identified in the plan, areas of cultural, traditional and historical significance along the coastal margin were embedded in mātauranga Māori and tangata whenua relationships with coastal resources.

There needs to be a method whereby these places/areas of cultural significance and their characteristics can be adequately protected, and the relationships of tangata whenua with them recognised and provided for.

Add a Table identifying the features and characteristics of cultural significance to tangata whenua and coastal hapū within the landward margin of the coastal environment of the Hastings District.

Amend the proposed plan to include a list of the characteristics that apply to elements, places and areas of cultural significance to tangata whenua.

Amend section 2.7.5 Methods to include:

“Waahi Tapu and Waahi Tāonga (Section 16.1)”

And make consequential amendments to Section 16.1 to include Waahi Tāonga areas and places.

20. Also under section 2.7.5 the proposed plan refers to the Hawke’s Bay Regional Policy Statement and regional plans, however the accompanying text only mentions the Coastal Environment Plan.

Amend text in this section to:

“The District Plan will give effect to the Hawke’s Bay Regional Policy Statement and have regard to the adopted Hawke’s Bay Regional Coastal Environment Plan to ensure that the approaches to activities are dealt with consistently.”

In reference to the New Zealand Coastal Policy Statement the proposed plan says that the District Plan cannot be inconsistent with the policy. Through RMA reforms, the requirement for regional and territorial authorities has become more rigorous and they are now required to “give effect to national policy statements.

Amend this part of the proposed plan to: -

“The District Plan ~~cannot be inconsistent with~~ must give effect to the policy and directions set out in the New Zealand Coastal Policy Statement.”

2.8 Rural Resource Strategy

21. Policy RRSP4 seeks to address outstanding landscape and natural areas and areas of cultural significance, however in the explanation of the policy, which will direct decision-making on areas that are of cultural significance to tangata whenua are places that are Waahi Tapu. This neglects reference to other landscape features of significance to tangata whenua that are not specifically Waahi Tapu.

Amend the explanation section of Policy RRSP4 to: -

“The District Plan will adopt a variety of mechanisms to recognise and protect Outstanding Natural Features, ~~and~~ Significant Amenity landscapes, Natural Areas, Heritage sites, ~~and~~ Waahi Tapu and Waahi Tāonga.”

Make a consequential amendment to the proposed plan and include in the glossary: -

“Waahi Tāonga – a natural feature or area that is highly valued by tangata whenua.”

2.9 Industrial Strategy

22. Industrial activities pose a risk not only to the versatile soils of the district, but to the underlying aquifer system as well. Management of industrial activities and zones needs to be cognisant of these risks.

Amend Policy ISP6 to: -

“Restrict the scale of industrial activity within the Plains Production Zone to ~~limit the~~ manage adverse effects on the versatile soil resource and the Heretaunga aquifer system.”

Make consequential amendments to the policy explanation and refer to the sensitive catchment classification in the Regional Resource Management Plan.

3.1 Tangata Whenua and Mana Whenua

23. Section 3.1.3 – Statutory context: Duties under the Act - provides commentary on the provisions in the RMA pertinent to Māori. The district plan uses interrelated terminology – mana whenua, tangata whenua, iwi, hapū etc. There needs to be a linkage between the provisions of the RMA, and the context within which the other terms are used. The glossary also needs more definitive interpretations for some of the terms used. As an example, the

definition for “tangata whenua” in the glossary reads “local people” which could apply to any locals including those not of Māori descent, or Māori who do not whakapapa to Kahungunu.

24. The bullet points in section 3.1.5 refer to the principles of the Treaty of Waitangi, but their scope and application are not defined within the proposed plan. The Treaty principles encapsulate far more than what the proposed plan allows for in terms of Māori values and interests. They provide direction on how the Crown and local government, in their role as agents of the Crown while enacting RMA functions, should include and engage with Māori. While mentioned in the commentary on tangata whenua, the principles of the Treaty have been given limited consideration through the drafting of objectives, policies and rules. These principles need to be specified rather than just a reference to section 8 of the Act. This will provide surety to tangata whenua, plan users and RMA decision-makers.

25. Section 3.1 does not contain a specific tangata whenua objective. Given the requirements under section 75 of the Act, it is difficult to understand the rationale for this omission as policies are primarily to implement the relevant objectives. The tangata whenua policies therefore do not relate to a specific objective and are not well grounded in statutory planning terms.

26. Sections 3.1.9 and 3.1.10 refer to waahi tapu and outstanding natural features. District Council embarked on a review of the waahi tapu section of the plan several years ago and decided to undertake the review in two stages. This addressed waahi tapu but there are landscape features and resources throughout Heretaunga that are also regarded by tangata whenua as taonga but are not captured within the waahi tapu or outstanding natural feature sections of the proposed plan. Consequently these do not accrue adequate protection under the district plan.

27. Taonga are resources or possessions that are highly prized and they are part of the cultural fabric that underpin the values, perceptions and historical associations of tangata whenua with the Heretaunga or Hastings district. Taonga include rivers and riverbeds, nohoanga, specific riparian margins, mahinga kai, mahinga mataitai, indigenous forest remnants, stands of indigenous plants used for rongooa, nga roto, nga puna, and sites of cultural significance that are not tapu. Waahi taonga are areas or sites of significance to tangata whenua due to historical association and traditional use. In our view, waahi taonga need to be provided for and a precautionary approach to subdivision, land use or development be required where there are indications or concerns expressed by tangata whenua over the potential disturbance to waahi taonga.

28.1 Amend the proposed plan to include specific tangata whenua objectives related to land use and development: -

“Objective TW1 – The values and interests of tangata whenua are recognised and provided for when making decisions on subdivision, land use and development, and the management of natural and physical resources in the Hastings District;”

Objective TW2 – Tangata whenua relationships and values associated with waahi taonga are protected through the management of land resources throughout the Hastings District.”

Or words of similar meaning and intent.

28.2 Make consequential amendments to Section 4.1 – Information Requirements for Subdivision and Resource Consent Applications to include consideration of “waahi taonga” as well as waahi tapu through assessments of environmental effects, particularly in relation to earthworks and the upgrading of roads or network utilities.

Add “*waahi taonga*” to Anticipated Outcomes provisions and assessment criteria where relevant.

28.3 Treaty principles are mentioned in several sections of the plan but they remain unspecified. This will make it difficult for plan users to take them into account if they do not know what they are. Add the following Treaty principles to Section 3.1 Tangata Whenua and Mana Whenua - and reference “*matters in Section 3.1*” in the resource consent criteria in Section 30.1 Subdivision and Land Development.

“The Principle of Te Tino Rangatiratanga

Te tino rangatiratanga (full chiefly authority) over resources including lands, forests, fisheries and other taonga were guaranteed to Māori under Article II of the Treaty. Tino rangatiratanga includes tribal self-regulation of resources in accordance with their own customary preferences. Tino rangatiratanga was not, nor was it ever intended to be, relinquished or given away by Māori to the Crown.

The Principle of Partnership

The Treaty signified a partnership between Māori tribes and the Crown. The exchange of promises under Articles I and II of the Treaty is seen as an exchange of gifts. The gift of the right to make laws and the promise to do so, and to accord the Māori interest an appropriate priority. Utmost good faith, reasonable co-operation and compromise are fundamental to this concept of a partnership.

The Principle of Kawanatanga

Kawanatanga, as ceded by Māori under Article I of the Treaty, gave the Crown the right to govern and to make laws applying to everyone. The delegation of resource management powers by the Crown to local authorities under the Act means that those authorities can make policies, set objectives and make rules affecting the management of natural and physical resources, subject to the guarantee of tino rangatiratanga to Māori and recognition of the partnership between Māori and the Crown.

The Principle of Active Partnership and Consultation

The spirit of the Treaty calls for Māori to have a much greater say in the management of the environment. Effective, early and meaningful consultation is an integral and necessary component and forerunner to greater participation by Māori in resource management decision-making.

The Principle of Active Protection

The guarantee of te tino rangatiratanga given in Article II is consistent with an obligation to actively protect Māori people in the use of their lands, water and other taonga, to the fullest extent practicable. In the context of resource management, the various elements which underlie and are fundamental to a spiritual association with the environment (including mauri, tapu, mana, tikanga and wairua) may all fairly be described as taonga that have been retained by Māori in accordance with Article II of the Treaty. The principle of active protection therefore extends to the spiritual values and beliefs of Māori.

The Principle of Hapu/Iwi Resource Development

Article III of the Treaty gave to Māori the same rights and duties as other New Zealand citizens. The Treaty guaranteed to Māori retention of their property rights under Article II, and the choice of developing those rights under Article III. To Māori, the efficient use and development of what are in many ways currently under utilised hapu/iwi resources is a very important principle of the Treaty in the context of resource management under the Act. Ngati Kahungunu seeks restoration of their tribal resources in accordance with their own needs and aspirations. In pursuing development, Māori may choose to pursue non-traditional uses of their resources instead of or as complementary to, their traditional practices. Recognition of the ability and need for hapu/iwi to develop their resources in a manner which achieves the purposes of the Act is a fundamental principle embodied in the Treaty.”

This will provide clarity to plan users and decision-makers on what the Treaty principles are that need to be taken into account pursuant to section 8 of the RMA, 1991.

28.4 Amend the proposed plan by adding to the glossary: -

“Principles of the Treaty of Waitangi – In terms of this plan means those principles contained in Section 3.1

Add “waahi taonga” to the glossary at 16.1.8 as follows: -

“Waahi Taonga – a highly valued site or area that is not specifically a waahi tapu site, but is of cultural significance to tangata whenua.”

28.5 Amend Policy TW2 as follows: -

“To recognise and provide for the relationship of tangata whenua with their ~~these~~ historic sites of occupation and use in the District, and implement procedures for tangata whenua involvement regarding any development, proposed excavation or construction in and around those identified areas, or in the case of the discovery of any burial sites or Maori artifacts. A protocol for the accidental discovery of sites is appended to this section of the Plan.

4.1.4 Information to be Submitted with Land Use Consent Applications

29. Ngāti Kahungunu Iwi Inc are in agreement with most of the matters in this section of the proposed plan, with the exception of: -

Section 4.1.4.1 f) which lists a range of criteria required for Assessments of Environmental Effects. Clause f) (iii) refers to matters of significance to tangata whenua. The list here does not include “waahi taonga” which are highly valued sites and areas of cultural significance that are not specifically waahi tapu. This means that such sites could be open to disturbance or desecration. Amend clause f) (iii) inter alia: -

“Any effects of the proposed activity on sites which have cultural or historic significance, including archaeological sites, Waahi Tapu, Waahi Taonga, Heritage Items or Notable Trees.”

5.1 Rural Zone

30. Farming or agricultural practices that use genetically modified organisms (GMO's) have the capacity to affect existing activities and uses on neighbouring rural land. Cross-pollination or genetic contamination of conventional produce with GMO's can also reduce incomes and result in a ban on the export of conventional or organic produce.

Add a new policy to this section as: -

“RZP13 The growing of genetically modified organisms in the rural zone will be discouraged to prevent cross-contamination of conventional produce, and the adverse effects from growing and harvesting genetically engineered organisms will be avoided.”

31. The rural zone is the largest zone in the district. Although land-based primary production is a dominant use, the objectives and policies should not negate consideration of other uses. Large tracts of land in the rural zone are also valued as part of the conservation estate, and Māori owned land in the rural zone that is currently held under multiple ownership, is unfairly penalised due to the proposed policy framework limiting subdivision. Where such lands do not have residential buildings on them, the establishment of Papakāinga or similar types of housing would be severely restricted, thus preventing Māori from living on their own lands. In some areas, indigenous re-growth is stabilising the land, but to manage this effectively requires a presence on the land, and Papakāinga facilities may be the best option. Establishment of Papakāinga on some large blocks could be restricted under the proposed policies.

Add a footnote clarifying that the establishment of Papakāinga in the rural zone is not restricted by the objectives and policies in this section.

32. The Anticipated Outcomes at section 5.2.2 identifies a range of aspirations, however the effects of land use on water resources is not included. With the establishment of the rural-residential category/zone, and allowing for farm-parks, HDC created a situation where rural residential requirements for water can affect the viability and sustainable use of ground and surface water resources, and existing users of the water resource. Potential water

requirements need to be part of the assessment criteria for subdivision/land use to prevent over-use of a limited resource.

Amend section 5.2.2 RZ1: -

“RZ1 – The life-supporting capacity of the rural land and rural water resources is retained.”

33. Table 5.2.4 lists a range of activities and their activity status. Some of the activities listed are in our view, given too lenient a status relevant to their potential environmental effects, and should be subject to more rigorous appraisal.

Amend Table 5.2.4 to include the following activities and/or status in the rural zone: -

RULE	ACTIVITY	STATUS
RZ1	<i>Land-based primary production <u>not involving the growing or processing of genetically modified organisms</u></i>	<i>P</i>
RZ2A	<i>Papakāinga</i>	<i>P</i>
RZ13	<i>Feedlots</i>	<i>⊖ RD</i>
RZ17	<i>Any new residential building or building being part of a marae, place of assembly, commercial activity or industrial activity erected on another site within 4300 metres of an intensive rural production activity involving buildings housing animals reared intensively and yards accommodating animals reared intensively.”</i>	<i>D</i>

The rule and activity for RZ17 (above) risks reverse sensitivity effects where existing agricultural land use is intensified to the detriment of existing activities and uses on adjacent land.

Make similar amendments to Table 6.2.4 Rule PP20.

For section 5.2.6A Intensive Rural Production and Feedlots, the criteria in b) does not include a separation distance from surface water. Add new clause: -

“(v) 50 metres from any natural surface water body.”

34. Section 5.2.7A contains a range of criteria for feedlots as controlled activities. These activities can generate adverse effects that are more adverse than other pastoral/rural based activities, so should be subject to more stringent criteria.

As a consequence, move Feedlots from section 5.2.7 Assessment Criteria Controlled Activities to section 5.2.8 Assessment Criteria Restricted Discretionary and Discretionary Activities, and include additional criteria under new clauses (d) and (e): -

*“(d) Bunding and stormwater management;
 (e) Nutrient leaching and management;
 (f) Effects on ground and surface water.”*

Add to Outcomes: -

“Ground water quality and surface water quality will be maintained through the management of adverse effects of land use.”

Or words of similar meaning and intent.

Amend RZO5: -

“To promote the integrated and sustainable management of natural and physical resources including water.”

35. Section 5.3.4 Rules contains Table 5.3.4 and Rule RR12. RR12 applies to Activities that are not Permitted or Controlled Activities in the Rural Residential Zone and classifies them as Non-Complying. As notified, this implies that Restricted Discretionary and Discretionary Activities are Non-Complying.

Amend RR12 to state:

“Any activity which is not provided for as a Permitted, ~~or~~ Controlled, Restricted Discretionary or Discretionary Activity.”

Section 5.5 Nature Preservation Zone

36. Objective NPO5 *enables* subdivision which implies permitted activity status (Oxford – to make possible or easy) despite the special character of the area. This means that subdivision is easier in this zone than elsewhere in the district, which should not be the case given the special character of the zone.

Amend Objective NPO5:

“~~To only enable s~~Subdivision and development that does not have the potential to undermine the values of the nature preserve area and natural character of the environment.”

Provide a Table that clearly articulates the values referred to in the objective.

37. The non-notified status for an activity with the potential to disturb sites of cultural significance to tangata whenua is not supported given the historical associations of tangata whenua with this area, and the numerous sites of previous occupation.

Amend Rule NP8 in Table 5.5.4 so that it is a Restricted Discretionary activity, and affected parties are required to be notified.

Add *“waahi tapu and waahi taonga”* to the matters to be considered in General Assessment Criteria at 5.5.7A i)

38. Add new clause: -

“viii) A cultural impact assessment shall be required where activities associated with subdivision or development have the potential to impact on a site of cultural significance to tangata whenua.”

Amend 5.5.7B viii):

“viii) An archaeological assessment and/or cultural impact assessment should be submitted by an appropriately qualified archaeologist person with any application to establish a camping ground. The assessment should cover the effects of the proposed camping ground on the archaeology and cultural values of the area recommending appropriate mitigation measures.”

Or words of similar meaning and intent.

6.1 Plains Strategic Management Area

39. The preamble to this section of the plan does not acknowledge the historical importance of the plains to Māori. It therefore fails to encapsulate appropriate consideration for Māori values going forward. It risks devaluing or undermining the significance of natural resources to tangata whenua within its management structure and intent. Maori development is restricted to existing marae which does not allow for development around former marae or traditional sites.

Amend 6.1.2 Anticipated Outcomes: -

“P5 Identified ~~m~~Marae-based settlements have enough land for future marae plans, and ~~for~~ Papakāinga housing is enabled.”

Delete proposed Policy PSMP6 and its associated explanation as it restricts the ability for tangata whenua and their communities to expand which is contradictory to the principles of the Treaty.

Delete Objective PSMO2 and explanation as it does not take into account the adverse effects that the encroachment of primary production has on the smaller communities including effects on human health and public amenity from excessive water use, odour, chemical sprays etc.

40. Amend the proposed plan to provide buffer zones around areas like Bridge Pa, Omahu, Paki Paki, Moteo, Waiohiki, Kohupatiki and Matahiwi where the use of chemical and agricultural sprays is restricted.

Amend Policy PSMP7 to: -

Limit development within the marae based settlements of Omahu, and Bridge Pa, to ~~mainly~~ marae based activities, marae based industry and Papakāinga housing.

41. Policy PSMP8 restricts servicing of Omaha and Bridge Pa marae and their communities to expensive infrastructure services, which is not strictly effects based. Although this can be preferable in some instances, there are emerging technologies for wastewater and stormwater treatment that does not require connecting to centralised city systems, provided land is available in the community.

Delete Policy PSMP8 and explanation paragraph.

6.2 Plains Production Zone

42. The introductory text promotes the versatile soils of the plains but does not acknowledge the linkage of production with the abundant and good quality water resource underlying the plains, or the water available from our surface water resources.

Amend the 3rd and 4th sentences of the 1st paragraph to: -

“The key to its productivity ~~is~~are the versatile soil resource and the water from the Heretaunga Plains which provides flexibility into the future for changing productive land uses. Retaining this land for production purposes and sustainable use of its water resources is a principle that forms one of the Council’s cornerstones for sustainability of the District’s natural and physical resources.”

43. Amend the 3rd paragraph to: -

“~~Mana~~ Tangata whenua have a unique relationship with the land and water resources of the ‘Plains’. As kaitiaki of these resources, ~~manat~~angata whenua have a responsibility to ensure that the versatile soils and the water resources of the Plains are available to future generations.”

44. Amend clauses in the Anticipated Outcomes section: -

“OUTCOME PP1 The sustainable management of the versatile land and water resources of the Heretaunga Plains with benefits of improved production.

OUTCOME PP2 Recognition and acceptance of the level of effects associated with the sustainable management of agricultural and horticultural activities on the Heretaunga Plains.”

45. Amend Policy PPP7: -

“POLICY PPP7 Provide for industrial and commercial activities in the Plains Production Zone with limits on scale and intensity to protect soil values, water values and rural character.”

12.1 Coastal Settlements Strategic Management Area

46. Recent inundation and erosion in the coastal margin has highlighted the fragile nature of coastal development in terms of storm events and climate change. The proposed plan also needs to be cognisant of the HBCEP and its relevance to coastal development in terms of Coastal Hazard Zones (CHZ's) and managing risk.

Amend Objective CSZO3: -

“OBJECTIVE CSZO3 To avoid the construction or extension, ~~alteration and construction~~ of buildings in CHZ 1, and on those parts of the coastal margin which are most at risk from erosion and inundation.”*

Add footnote: -

*“[NB * means Coastal Hazard Zone 1 as identified in the HBCEP]”*

Or words of like meaning and effect.

12.3 Waimarama Settlement Zone

47. Water resources at Waimarama are coming under increased pressure due to expansion of residential housing and lack of consideration for the requirement for potable water. This is having adverse effects on surface water resources. Use of surface water for residential use is compromising water flow and water quality in the Waingongoro Stream which is a taonga to the Māori people of Waimarama.

Add new WSZ10 to the Anticipated Outcomes: -

“WSZ10 The significance of the Waingongoro Stream to tangata whenua of Waimarama will be recognised and provided for.”

48. Amend proposed Objective SZO1: -

“OBJECTIVE SZO1 To ensure adequate levels of infrastructure and potable water are provided for as a pre-requisite prior to residential development occurring.”

As a consequence add new policy as Policy WSZP1A: -

“POLICY WSZP1A Require the investigation of and provision for adequate levels and quantities of potable water supply prior to new residential development, or supplementary accommodation additions to existing residential housing.”

Or words of similar meaning and intent.

Add to the second paragraph of the Explanation section: -

“Water supply is already fully committed at Waimarama and further growth will be contingent on future planning and provision for potable water supply and infrastructure.”

49. Policy WSZP5 does not recognise the historical, tikanga Māori or cultural values that are the basis for the Waimarama community being established at its current location. As these are the foundation for the existence of Waimarama, they should be acknowledged in the district plan.

Amend Policy WSZP5 as follows: -

“POLICY WSZP5 Identify and provide for those characteristics which are important in maintaining and enhancing the special character and amenity of the Waimarama settlement, including historical and cultural characteristics, and protect those characteristics through zoning provisions.”

14.1 Industrial

50. The range of Anticipated Outcomes in Outcome IZ7 of this section allows for the intensification and expansion of activities that make economic contributions to the district or region, however the effects of such expansion or intensification on the unconfined aquifer, or on adjacent zones are not considered appropriately.

Amend Outcomes section by adding: -

“IZ8 Adverse effects on the unconfined Heretaunga Aquifer from operations and activities within Industrial zones are avoided.”

And make any consequential amendments to the Industrial section of the proposed plan including amendments where strategies are referenced which promote activities over the unconfined aquifer

51. The current wording for proposed Objective IZO4 may not promote sustainable management as defined by the Resource Management Act. Efficient and effective use is not always sustainable use. Amend Objective IZO4: -

“OBJECTIVE IZO4 To enable the efficient and effective use, and the sustainable management of the District’s resources by when providing for the development of new industries in accordance with the Hastings Industrial Strategy.”

15.1 Natural Hazards

52. The Anticipated Outcomes section does not address natural hazards caused by climate change or coastal inundation and erosion. Cyclonic weather patterns and storm events are natural hazards and when combined with the coastal hazard zones as specified in the HBCEP, the risks to human health and safety are increased.

Amend Outcome N1: -

“N1 New Residential Zones and houses are located outside of avoidable hazard risk areas. Where building development is already within a hazard area, the reasonable risk of the hazard is reduced and/or mitigated by minimum floor levels, buffers, setbacks or other building standards.”

Add new Outcome as N1A: -

“N1A New residential housing or commercial activities within CHZ1 are avoided except where hard engineering mitigates the risk from coastal inundation and flooding.”

16.1 Waahi Tapu District Wide Activity

53. The start of the introduction section paraphrases the specific provision in the RMA relating to the requirement to recognise and provide for “as a matter of national importance the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, Waahi Tapu, and other taonga” however the rest of the section, although identifying watercourses, awa, roto and other taonga, does include provisions to protect or preserve them from inappropriate subdivision, use or development. The section heading does not encompass the many sites in the district that are of cultural significance to Tangata Whenua, yet may not be encompassed within the waahi tapu definition. These include our main estuarine areas, prominent peaks and landscapes, riverbeds, and nohoanga adjacent to our rivers and streams.

Amend the heading to this section to:

“16.1 Waahi Tapu and Waahi Taonga District Wide Activity.”

54. Amend the introduction and bullet points: -

Waahi Tapu and Waahi Taonga sites include:

- old pa sites, excavations and middens (pa tawhito)
- old burial grounds and caves (ana tupapaku)
- current cemeteries (urupa)
- historic battlefields (wahi pakanga)
- sacred rocks, trees or springs (nga toka, rakau tapu)
- watercourses, swamps, lakes and their edges (waipuna, awa, roto) including riverbeds and estuaries
- traditional camping sites for education and harvest (nohoanga)
- prominent and iconic landscape features (maunga, puke)

55. Add - Waahi Tapu “*and Waahi Taonga*” to the third paragraph in the introduction section.

56. The Anticipated Outcomes do not go far enough in providing for the relationships of Māori with these taonga.

Amend Outcome WT1: -

“OUTCOME WT1 Recognition of and provision for Tangata Whenua cultural relationships associated with the cultural significance importance of Waahi Tapu and Waahi Taonga sites to Tangata Whenua.”

Make any consequential amendments to other parts of the proposed plan to specifically include Waahi Tapu “*and Waahi Taonga*” where relevant.

57. Amend Objectives WTO1, WTO2 and WTO3 to include: “...and Waahi Taonga...” and include “*areas*” as well as “*sites*.”

Include assessment of Waahi Taonga in the assessment criteria section for Discretionary activities and include a definition for Waahi Taonga in the Glossary of Terms at 16.1.8. In this manner, sites and areas of cultural significance to Tangata Whenua that are not Waahi Tapu, yet are still of cultural significance to Tangata Whenua will attain an appropriate level of protection.

Add maps and criteria to Appendix 50 defining the location and spatial extent for estuarine areas for major rivers and streams and their margins as Waahi Taonga, including the Tukituki Estuary, the Tutaekuri-Ngaruroro-Clive Estuary, the Maraetotara Estuary, the Waingongoro Estuary (original location), the Pakuratahi Estuary and the Mohaka Estuary.

Also identify the headwaters and riverbeds of the Ngaruroro, Tutaekuri and Mohaka rivers and lakebeds in the Hastings District as waahi taonga.

17.1 Natural Features and Landscapes

58. Outstanding Natural Features and Landscapes are significant for a range of reasons including for their cultural, amenity, visual and iconic values. Some activities break up the natural form of the skyline and detract from the outstanding characteristics and should be prohibited from outstanding landscapes and some areas currently defined as recommended areas for protection (RAPS) in the operative district plan. Wind-farms and their associated infrastructure have become contentious issues in neighbouring regions, resulting in time consuming and costly hearings and litigation. It would be helpful if the proposed plan provided further direction on where wind farms and similar infrastructure should not be built.

Identify in the proposed plan and maps, areas in the Hastings District that are not suitable for the establishment of wind-farms or the placement of pylons, including Te Mata Peak, Rongokako (Sleeping Giant) land form, iconic landscapes and natural features of cultural significance to tangata whenua.

59. Although the RMA and the NZCPS include reference to outstanding natural features, the word “outstanding” is omitted from the Anticipated Environmental Outcomes section at 17.1.2. This implies that “*outstandingness*” as an attribute, will not be reasonably protected through the rules or the assessment criteria.

Amend Anticipated Environmental Outcomes: -

“LS1 The values of outstanding natural landscapes and important landscapes are not compromised by inappropriate ~~building~~ development, earthworks ~~and~~ or plantations.

LS4 Buildings do not visually intrude on the natural form of rural or coastal ridgelines and spurs.

LS5 Large scale earthworks do not visually intrude on the natural form of rural or coastal ridgelines, spurs, and hill faces.”

60. Delete the Mana Whenua Values provision from Policy LSP1 and add a new Policy LSP1A: -

“Policy LSP1A Tangata whenua values - Natural features and landscapes that are iconic, widely known, and of cultural significance to tangata whenua are protected from inappropriate development.”

Add a footnote: -

Where natural landscape features are acknowledged by the Crown through Treaty settlements processes as being of particular significance to tangata whenua these will be added to the district plan, where necessary, through minor amendment and without the need to go through a full First Schedule process.”

21.1 Papakāinga District Wide Activity

61. The Papakāinga section is important to tangata whenua in the Hastings District as it provides the opportunity to establish Papakāinga housing, but their needs to be more coherency between the different provisions in this section and other provisions in the proposed plan that mention Papakāinga, as some appear to restrict Papakāinga to Māori Land under Te Ture Whenua Māori Act, 1993, creating potential problems for Māori who wish to establish Papakāinga on General Land including General Land owned by a Māori Incorporation or Trust. The term “Māori Land” has specific connotations and limits in law.

Amend the sentence in the 2nd paragraph of the Introduction to: -

“Papakāinga is the development of housing generally for Māori people on Māori-owned Land.”

Amend the first sentence in the 3rd paragraph of the Introduction to: -

“This Section of the District Plan specifically provides for Papakāinga (Māori Housing) as a District Wide Activity on Māori-owned Land.”

Add sentence to the end of the 3rd paragraph: -

“Therefore this section provides for the establishment of Papakāinga on General Land, should it be the owners’ desire to do so.”

And make any consequential amendments to the proposed plan to be consistent with the above.

62. Amend Policy PKP1 as follows: -

“POLICY PKP1 Encourage Hapū, Whānau and Marae to establish Development Plans as a guide to development on ~~Māori~~their Land in accordance with the provisions of the Resource Management Act 1991 and the District Plan.”

Consequently amend the definition of Papakāinga: -

“Papakāinga: means residential housing and associated infrastructure on land identified under Section 21.1 ‘Papakāinga District Wide Activity’, or when used in any other context of the Plan means housing and infrastructure established on Māori-owned land for predominantly Maori people.”

63. Amend the Rules table to better enable the establishment of Papakāinga on General Land: -

TABLE 21.1.5 STATUS OF ACTIVITIES PAKAKĀINGA		
RULE	ACTIVITY	STATUS
Rule PK5	Papakāinga on Land held under General Title	D RD

64. The provisions in Section 21.1.7D place an unwarranted impediment in the way of Māori who may wish to develop their General Land for Papakāinga purposes. Given the sale or confiscation of vast tracts of ancestral land in the 19th and 20th centuries, the failure to provide adequate reserve land for Māori use and the loss of lands under the Public Works Act, Māori have already been severely disadvantaged in pursuit of their aspirations.

Delete Section 21.1.7D as it is an impediment to development of Māori-owned land: -

~~“21.1.7D — PAKAKĀINGA ON SITES GIVEN A DECLARATION OF STATUS UNDER THE MĀORI AFFAIRS AMENDMENT ACT 1967~~

~~Where an applicant wants to undertake Papakāinga Development under land which is in general title, the applicant shall provide details showing:~~

~~(a) Evidence that the Title was given a Declaration of Status under the Māori Affairs Amendment Act 1967.~~

~~(b) Evidence that the land has remained in ancestral ownership continuously from the date the status declaration occurred.~~

Outcome

Development can occur on land given a declaration of status provided there is evidence showing a historical relationship of Māori with the land.

65. Delete 21.1.8B for similar reasons as above: -

~~“LONG TERM OWNERSHIP OF PAPA KĀINGA ON LAND GIVEN A DECLARATION OF STATUS UNDER THE MĀORI AFFAIRS AMENDMENT ACT 1967 AND PAPA KĀINGA ON GENERAL TITLE~~

~~Applicants must provide documentation showing the availability of appropriate mechanisms, including covenants, to secure long term Māori administration, ownership and maintenance of the land title.”~~

66. Delete Section 21.1.8C

~~“PAPA KĀINGA ON GENERAL TITLE~~

~~Where an applicant wants to undertake Papakāinga Development under land which is in general title, the applicant shall provide details showing:~~

~~(a) Explanation as to the historical reasons that the land was given general title.~~

~~(b) Evidence as to the historical reasons as to why the land should be considered for Papakāinga Development.~~

~~(c) Explanation as to why the land cannot be converted to Maori Title under the Te Ture Whenua Māori Act 1993.”~~

22.1 Network Utilities District Wide Activity

67. The Anticipated Outcomes section highlights the need to prevent adverse effects of adjacent activities on network utilities and their infrastructure, but does not cater for the adverse effects from the maintenance, upgrading or intensification of networks on neighbouring land uses.

Add NU6 to Anticipated Outcomes: -

“NU6 Protection of landowners and their interests from the adverse effects arising from the upgrading and maintenance of Network Utilities.”

68. The explanation for Policy NUP1 mentions RMA section 10 and existing use rights, but these must still be managed pursuant to the over-riding purpose of “sustainable management of natural and physical resources”. Where maintenance or upgrading has the potential to adversely impact on neighbouring properties and their operations, such effects need to be avoided, remedied or mitigated. In its proposed form, this section does not meet the purpose of the Act, and may be detrimental to existing farming or land management operations.

Amend the last sentence to the explanation for Policy NUP1: -

“The District Plan will allow for the continued operation, maintenance, replacement, refurbishment, and upgrading of Network Utilities in existence at the date of public notification of the District Plan, provided adverse effects on adjacent activities are avoided, remedied or mitigated.”

69. Proposed Policy NUP5 places Outstanding Natural Features at risk from development, which will undermine their significant values and their protection. Many of these landforms have significant cultural values to tangata whenua.

Delete Policy NUP5 and associated explanation: -

~~*“New transmission infrastructure shall only traverse outstanding and significant landscapes, or areas of significant historical, cultural and recreational value where the infrastructure is subject to a significant functional constraint, or where there is no feasible practicable alternative route and/or when significant adverse effects are outweighed by the overall benefits of the proposal.”*~~

And make any consequential amendments to other parts of the proposed plan.

70. The Rules section for Network Utilities is too lenient in regard to upgrading and intensification of existing activities as some of these activities have the potential to disrupt activities on adjacent land.

Amend part of the Rules section as below: -

TABLE 22.1.5 RULES – NETWORK UTILITIES			
RULE	ACTIVITY	STATUS	NATIONAL ENVIRONMENTAL STANDARD
4	The operation, maintenance, replacement, refurbishment or upgrading of existing roads, road reserves and service lanes, including any associated retaining walls, culverts, bridges and general works both within and on land adjacent to road reserve. (For the avoidance of doubt it is expected that public roads will generally be designated. This provision is therefore intended to cover instances where the formed road falls outside of the designation or to allow work outside of the legal road reserve with regard to maintenance of the road.)	P “RD”	

Amend 1st paragraph following the Table: _

~~*“Where an activity requires resource consent because it is within the National Grid Corridor or National Grid Yard then the application need not be publicly notified and need not be served on any affected party where the resultant adverse effects are less than minor. apart from Transpower New Zealand Limited who will be considered an affected party.*~~

And make consequential amendments to the assessment criteria of this section.

71. Add new Item 10 to the assessment criteria for Restricted Discretionary activities: -

“10. Effects on the tikanga Maori values and characteristics related to land and landscape features in the area.”

23.1 Renewable Energy

72. Renewable energy is generally supported provided it does not detract from other values of significance to tangata whenua, including the protection of iconic or outstanding landscape features or taonga.

Anticipated Outcome RE2 as proposed, risks allowing adverse effects on the district's outstanding natural features and landscapes.

Amend Outcomes RE2: -

“A range of renewable electricity generation initiatives are supported by the District Plan's objectives, policies and provisions, in a manner that ~~integrates with the protection of the~~ District's outstanding landscapes, iconic features, taonga and their special characteristics.”

73. Objective REO2 seeks to enable renewable electricity generation which is akin to permitted activity status. The adverse effects of renewable energy generation are still required to meet the purpose of the Act.

Amend Objective REO2: -

“To ~~enable~~ promote renewable electricity generation activities, ~~given~~ recognising the practical constraints they face, while ~~managing~~ avoiding or mitigating their significant adverse effects.”

74. In our view, Policy REP2 by providing for “new” electricity generation is promoting leniency in assessing future electricity generation activities.

Amend Policy REP2: -

“Provide for the identification and investigation, and the sustainable management of the establishment, development, upgrading, operation and maintenance of new and established renewable electricity generation facilities.”

Include consideration for Waahi Taonga within this section.

75. The placement of renewable electricity generation activities within ONFL's is not compatible with the community's aspirations.

Amend Table 23.1.5 to make Rule RE5 applicable to all ONFL's in the district.

TABLE 23.1.5 RENEWABLE GENERATION ACTIVITIES		
RULE	ACTIVITY	STATUS
RE5	Any renewable electricity generation activity within <u>an</u> ONFL4 or ONFL4	NC

76. Amend 23.1.7 Assessment Criteria for Restricted Discretionary activities to include additional parameters in clause (c): -

“If applicable, the extent to which the activity may adversely affect the District Plan identified Heritage item, Outstanding Natural Feature or Landscape, Significant Amenity Landscape, Recommended Area for Protection, Waahi Tapu or Waahi Taonga included in Appendices 43, 44, 56 and 50.”

77. Make a similar amendment to 23.1.7.2 Discretionary Activities, clause (e) (iii): -

“the extent to which the proposal will adversely impact on cultural values, including on Waahi Tapu or Waahi Taonga identified in Appendix 50;”

27.1 Earthworks, Mineral, Aggregate and Hydrocarbon Extraction

78. The Anticipated Environmental Results do not address all of the potential issues that they should in relation to the range of activities in the Section heading.

At 27.1.2 proposed EM 9 does not mention the water quality within the Heretaunga Aquifer and only identifies the Unconfined portion of the aquifer system. Mineral exploration if it occurs would be at depths far below the Heretaunga aquifer system and threats to the integrity of the aquifer should be managed for mineral exploration and the other activities specified. Amend EM9: -

“The water quality and life-supporting capacity of the Heretaunga Plains Unconfined Aquifer System is/are safeguarded.”

79. Objective EMO3 as proposed attempts to manage future mineral extraction including on the Heretaunga Plains and within the spatial extent of the Heretaunga Aquifer system, thus endangering a resource that underpins the economic prosperity of the District. This is incompatible with other parts of the proposed plan that promote protection of the versatile soils of the Plains and their use. Future land use could be intensification of existing agricultural production, yet this section of the plan discourages this in favour of mineral extraction that may not happen. This is not sound planning practice.

80. There is general consensus that mineral exploration should be discouraged from occurring within proximity to the Heretaunga Aquifer System. Ngāti Kahungunu would support this approach, given the significance of this ground water resource to our hapū and whānau.

Delete proposed Objective EMO3 and amend the proposed plan to exclude oil and gas exploration within the spatial extent of the Heretaunga Aquifer System.: -

81. Insert new Objective EMO3A: -

“Objective EMO3A

The water quality and life-supporting capacity of the Heretaunga Aquifer system is protected from adverse effects of oil and gas exploration activities.”

And make a consequential amendment whereby Oil and Gas exploration within proximity of the Heretaunga Aquifer System is a prohibited activity.

82. Amend Policy EMP7 to be compatible: -

POLICY EMP7

Relates to Objectives EMO2 and EMO3A

~~“Control/Prohibit mineral exploration and mining activities on land located over within the spatial extent of the Heretaunga Plains unconfined-a Aquifer Ssystem, to ensure the protection of the potability of their significant underlying water resource.~~

And amend the related explanation accordingly: -

~~“Explanation~~

~~Exploration and mining activities are recognised as having the potential to permanently threaten the quality of the Heretaunga Plains unconfined-aquifer system.~~

~~The depth of any excavations in this area will need to be limited to ensure that the water table is protected. Applications for Resource Consents for exploration or mining activities will also be required to demonstrate that the land can be rehabilitated to ensure that it will support a range of productive land use activities”~~

83. Delete section 4 from Section 27.1.7G

~~“4. HERETAUNGA PLAINS UNCONFINED-AQUIFER~~

~~The following criteria relates to land located over the Heretaunga Plains Unconfined Aquifer.~~

~~(a) The depth of any excavation in order to achieve a maximum height for the water table below the surface of the land of 5 metres. The maximum height of the water table will be identified as the highest recorded at the site, or at the closest point to the site.~~

~~(b) The ability of the site to be rehabilitated to enable the land to continue to support a range of productive land use activities after the exploration or mining activity has ceased.”~~

29.1 Hazardous Substances and Genetically Modified Organisms District Wide Activity

84. The introduction to this section highlights the risks from hazardous substances to the unconfined aquifer, but not the risks from GMO's that may find their way into the aquifer and be spread through hydrological processes. Under the "Hazardous Substances" sub-heading, the proposed plan focuses mainly on the storage of hazardous substances but not their use, despite the requirement in RMA s31: -

"The control of any actual or potential effects of the use, development, or protection of land, including for the purpose of –

*i) the prevention or mitigation of any adverse effects of the storage, **use, disposal,** or transportation of hazardous substances."*

85. In addition the proposed plan only recognises the unconfined aquifer as a sensitive environment when other areas in the Hastings District are acknowledged in the HB RRMP as being sensitive environments in terms of the disposal of stock effluent and combined agricultural inputs. A proposed district plan is required to have regard to regional plans, and it is a logical conclusion that if stock effluent is considered a risk to "sensitive environments" that hazardous substances and new organisms should also be managed carefully within these areas that lie within the Hastings District.

Include the sensitive catchments within the Hastings District (as identified in the HB RRMP) within the scope of Section 29.1 of the PHDP and within its objectives, policies and rules related to the management of hazardous substances and new organisms.

Make consequential amendments to the relevant Outcomes and AER provisions.

86. In 29.1.2 Anticipated Outcomes: -

Amend the following anticipated outcomes: -

"OUTCOME HS2 ~~Appropriate~~ precautionary approach is taken in the management of hazardous substances and new organisms ~~over~~ within the boundary of the Heretaunga Plains Unconfined Aquifer System."

OUTCOME HS4 Activities utilise a precautionary approach to the use of hazardous substances ~~where necessary~~ for their operations, in appropriate locations.

OUTCOME HS5 Avoidance of ~~unacceptable~~ risk to the community and the environment from the 'release' or 'field trialling' of Genetically Modified Organisms."

87. In section 29.1.3, make the following amendments: -

"POLICY HSP1

Ensure that where activities involving hazardous substances are located in proximity to the sensitive environments ~~of in the Heretaungastings District Plains Unconfined Aquifer~~, they are designed and managed to reduce risks to the environment and community.”

88. Add new policy as: -

“POLICY HSP2A

Where land use is intensified resulting in increased use of hazardous substances, additional adverse effects resulting from the intensification shall be remedied or mitigated.”*

Add footnote* *“This policy applies from 30 May 2014”*, or words of similar meaning and intent.

Amend the plan to make the field trials of GMO’s a prohibited activity

Amend sentence in the Explanation section to read: -

“The land use interfaces surrounding existing hazardous facilities, and the use of hazardous substances in the district, need to be managed to ensure that these activities are not compromised by more sensitive activities establishing in close proximity (reverse sensitivity). Likewise, increases in the use of hazardous substances on land in close proximity to existing residential housing and public areas, should not result in increased risk to the community.”

Delete the following objective and policy (and the explanation paragraph as they are superfluous.

~~OBJECTIVE HSO3~~

~~*Relates to Outcome HS3*~~

~~To avoid any unnecessary duplication of regulation between the Hazardous Substances and New Organisms Act 1996 and the District Plan.~~

~~POLICY HSP4~~

~~*Relates to Objective HSO3*~~

~~*To not regulate the use, storage or transportation of hazardous substances, in the District Plan where adequate levels of community and environmental protection is already provided by the Hazardous Substances and New Organisms Act 1996 or other legislation and regulation.*~~

89. The use of Hazardous Substances in the district poses a risk to the community and some existing controls are inadequate to protect health and well-being. As an example, the placing of signs on the side of the road stating “Spraying in Progress” or similar does not negate the risk to passing pedestrians and cyclists, or people in cars with their windows open. Agricultural spraying in the urban and peri-urban areas is often done in the morning in calm or mild conditions when children are on their way to school. Droplets from typhoon spraying systems can travel over distances greater than the width of a road. Many hazardous substances are yet to be re-assessed by the Environmental Protection Authority due to growing awareness and concern around the risks posed to people and the environment from their use. The HSNO controls are a minimum regulation and where

multiple hazardous substances are used within a relatively small area, their cumulative effects have yet to be determined. Where there is doubt over the adequacy of controls, or the cumulative effects of two or more hazardous substances, a precautionary approach should apply.

90. Table 29.1.5 (Rules) only addresses activities involving hazardous facilities, and not the use of hazardous substances themselves in relation to land use and development. Rule HS1 as drafted permits the storage and use of hazardous substances within the boundary of the Heretaunga Plains unconfined aquifer. This places the health and well-being of the community at risk. Likewise, Rules HS2 and HS3 are also too lenient.

Genetic Modification

91. Genetic modification has the potential to contaminate land, water and air, and to adversely affect crops and pasture grown on adjacent land through inappropriate management and/or regulation. This can add costs to existing activities and risk access to export markets if management or controls are inadequate. Even though strict protocols and conditions have been attached to the release or trials of GMO crops and produce, in some instances, there has still been cross-contamination of adjacent land, soils and pasture. The viability of GMO's within ground water has not been adequately assessed by the promoters of this technology.

92. The growing of organic produce in the Hastings District is a lucrative and expanding industry cluster incorporating wine production, pip and stone fruit, vegetables, meat and herbs, with access to national and international niche markets. The organic and conventional food production industries should be protected from potential contamination from GMO crops and material. The discretionary activity status for field trials of GMO's runs counter to the stated intentions of HDC in the first four paragraphs of this sub-section of the proposed plan.

Delete all references in the proposed plan to "discretionary status" for field trials of GMO's, and make them a prohibited activity.

93. There is already significant community opposition to GMO's in the district. If the mood or aspirations of the majority of the community alter, then the status can be changed via plan change or variation. Including a policy like Policy HSP6 is inconsistent with community aspirations and the outcomes of HDC's consultation on this matter. Policy HSP6 is unnecessary.

As a consequence, delete Policy HSP6 and its explanation paragraph

94. Amend Table 29.1.5: -

TABLE 29.1.5 STATUS OF ACTIVITIES – HAZARDOUS SUBSTANCES AND GMOs		
RULE	ACTIVITY	STATUS
RULE HS1	The storage, handling or use of hazardous substances (excepting Arsenic (As) and Major Hazardous Facilities) <u>within sensitive catchments*the Heretaunga Plains Unconfined Aquifer.</u>	Permitted Restricted Discretionary
RULE HS2	The storage, handling or use of hazardous substances in all other	Permitted

	areas (excepting Major Hazardous Facilities).	Restricted Discretionary
RULE HS3	Activities involving Genetically Modified Organisms that are not classified as Field Trials or Releases. This includes (but is not limited to) research within contained laboratories, medical and veterinary applications and food containing Genetically Modified products that are not viable.	Permitted Discretionary
RULE HS4	Permitted Activities not meeting the Specific Performance Standards and Terms in Section 29.1.6.	Restricted Discretionary
RULE HS5	Major Hazardous Facilities	Discretionary
RULE HS6	The Field Trialling of Genetically Modified Organisms	Discretionary Prohibited
RULE HS7	The Release of Genetically Modified Organisms	Prohibited
RULE HS8	The storage, handling or use of Arsenic (As) within the Heretaunga Plains Unconfined Aquifer RMU.	Prohibited

*[As defined in schedule VIb of the regional Resource Management Plan]

Section 29.1.6 Specific performance standards and terms

95. Amend text in the Outcome in 29.1.6A: -

“The quality of groundwater in the Unconfined Aquifer will be protected from adverse effects from hazardous substances including from the accidental spillage of hazardous substances onto the land.”

Amend text in 26.1.6A (ii): -

*“(ii) Stormwater
Facilities shall be provided to prevent hazardous substances from being washed or spilled into natural ground, surface water, or entering any piped storm water systems or storm water ground soakage during a 1% AEP rain event.”*

Add new clause vi) to 29.1.7 – 1

“vi) the potential for cumulative adverse effects and their build up over time”

Signed: _____

Morry Black

Resource Management Advisor
Ngāti Kahungunu Iwi Incorporated

morryb@xtra.co.nz

Date: _____