

IN THE MATTER of the Resource Management Act 1991
AND

IN THE MATTER of an appeal under clause 14 of
Schedule 1 to the Act

BETWEEN NGATI KAHUNGUNU IWI INC
(ENV-2015-WLG-000055)

Appellant

AND HASTINGS DISTRICT COUNCIL
Respondent

BEFORE THE ENVIRONMENT COURT

Environment Judge C J Thompson sitting alone pursuant to section 279 of the Act.

IN CHAMBERS

CONSENT ORDER

Introduction

[1] The Court has read and considered the appeal, the parties' draft consent order received 19 October 2016 and the email dated 5 December 2016 from counsel for the Council.

[2] Hawkes Bay District Health Board, Hawke's Bay Regional Council, Horticulture New Zealand and NZ Kiwifruit Growers Inc, Maungaharuru- Tangitū Trust, BP Oil New Zealand Ltd, Mobil Oil New Zealand Ltd, Z Energy Ltd and David Renouf gave notice of an intention to become parties under s 274 and have signed the consent memorandum setting out the relief sought.

[3] The Court is making this order under s 279(1)(b) of the Act, such an order being by consent, rather than representing a decision or determination on the merits pursuant to s 297. The Court understands for the present purposes that:

- (a) All parties to the proceedings have executed the memorandum requesting this order; and
- (b) All parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to relevant requirements and objectives of the Act, including in particular Part 2.



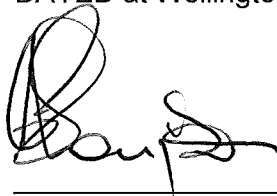
Order

[4] The Court orders, by consent, that the Proposed Hastings District Plan is amended as set out in Annexure A to this order, with additions shown in underline and deletions shown in strike-through.

[5] This order disposes of the appeal other than those parts of the appeal in paragraph 7(b), (c) and (d) (which relate to the Heretaunga Unconfined Aquifer).

[6] There is no order as to costs.

DATED at Wellington this 15th day of December 2016



C J Thompson
Environment Judge



Annexure A – Changes to Hastings District Plan required by Consent Order

Section 2.4 – Urban Strategy

- (a) Amend Anticipated Outcomes for Urban Development as follows:

2.4.2 ANTICIPATED OUTCOMES

...

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

Section 3.1 –Tangata Whenua and Mana Whenua

- (b) Include the following principles of the Treaty of Waitangi as a new section 3.1.3A in Section 3.1 – Tangata Whenua and Mana Whenua, immediately after section 3.1.3 – Statutory Context: Duties under the Act, and before section 3.1.4 – Tangata Whenua with Mana Whenua in the District.

3.1.3A PRINCIPLES OF THE TREATY OF WAITANGI

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

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 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.

Section 21.1 – Papakainga District Wide Activity

(c) Amend Section 21.1.4 – Methods as follows:

Section 21.1 Papakainga District Wide Activity: This Section facilitates the development of residential housing on Maori Land throughout the District. The District Plan provides for Papakainga development on Maori land under Te Ture Whenua Maori Act 1993 or land owned by Maori under General Title. This method addresses the particular aspirations of the Hastings District's tangata whenua who wish to reside on their ancestral lands.

Section 33.1 – Definitions

(d) Amend Section 33.1 – Definitions by adding a definition after 'Viticulture' and before 'Waahi Tapu' as follows:

Wāhi taonga: A treasured, prized and protected site or area of significance to tangata whenua and includes but is not limited to:

- Old pā sites, excavations and middens (pā tawhito)
- Old burial grounds and caves (ana tūpāpaku)
- Current cemeteries (urupā)
- Battlefields (wāhi pakanga)



- Sacred rocks, trees or springs (toka tapu, rakau tapu and waipuna tapu)
- Watercourses, springs, swamps, lakes and their edges (awa, waipuna, repo, roto)

Throughout the Plan

- (e) Make the further amendments to the Plan as set out in **Annexure B.**



Annexure B – Further Changes to Hastings District Plan required by Consent Order

1.1.4.4 Other Plans

(c) District Plans of Adjacent Territorial Authorities

Hastings District shares territorial boundaries with five other local authorities. The most significant of these is with Napier City, which Hastings District encompasses. The common movement of people and goods between these two authorities and the proximity of industrial, residential and commercial centres means that the planning undertaken by each authority will have potential implications for its adjoining neighbour. Hastings District and Napier City have worked together to achieve some consistency of the rules that apply to activities that cross the district boundaries.

A number of the common boundaries with the Hastings District are formed by waterbodies. The management of land based activities in the water catchment, and the direct management of activities on the surface of waterbodies requires some consistency to ensure that the goals and aspirations of both communities are achieved. In addition to the joint waterbodies, both Hastings and Napier Councils have worked collaboratively to align policies and rules in several areas of their Plans.

The Hastings District's Tangata Whenua also cover areas of Wairoa, Napier, and Central Hawke's Bay, in addition to the Hastings District. It is important for their rights and aspirations to be mutually respected by the different local authorities and for complementary provisions to be in place for the management of Papakaingapapakainga, Waahi-Tapu wāhi taonga and Maraemarae.

(d) Historic Places Register

The Historic Places Register which is established by the Heritage New Zealand Pouhere Taonga Act 2014 ~~Historic Places Act 1993~~, lists buildings, places and sites which are of special or outstanding historical or cultural significance or value (Category_1) and those of historical or cultural heritage, significance or value (Category_2). The Register-List can include buildings, sites, archaeological sites and waahi-tapu wāhi tapu. A copy of the Historic Places Register-New Zealand Heritage List containing such sites located in the Hastings District is held by the Hastings District Council.

1.1.5.2 The Overall Structure of the Plan

Planning Maps

The Planning Maps identify the zoning for the area and any designations, scheduled sites, heritage items and waahi-tapu wāhi taonga.



1.1.5.3 Hierarchy for Undertaking Land Use Activities in the Plan

Restrictive District Wide Activity

The rules for Restrictive District Wide Activities take precedence over any other rules in the plan. However underlying rules for Permissive District Wide Activities and Strategic Management Areas/Zones shall still apply.

Applies to :

15.1 Natural Hazards;

16.1 ~~Waahi Tapu~~ **Wāhi Taonga**

17.1 Natural Features & Landscapes

18.1 Heritage & Notable Trees

19.1 Riparian Land Management & Public Access

20.1 Indigenous Vegetation & Habitats of Indigenous



2.3.3.4 How the District Plan will Deliver the Vision

A place based approach has been adopted in the drafting of the District Plan. Placed based planning is based upon identifying those areas of the District that have special characteristics that set them apart from other areas of the District. These areas are identified in the Plan as Strategic Management Areas (SMAs). The SMAs describe the features that are unique to that area and each will have a set of overarching Objectives and Policies that specifically recognise the special identity and provide for it to be maintained for the future. This means that each of the areas will have its own vision for the type of environment that is to be maintained or enhanced through the District Plan.

There will be a series of Zones within the SMAs that recognise the like areas of land uses. The Zones will follow the existing zoning provisions in the Plan beginning with the establishment of Objectives and Policies for dealing with the resource management issues of the Zone. The Objectives and Policies will not only be achieved by means of Rules, but also by a range of other Methods such as design guides. The Outcomes that are sought from the Rules and Methods will be clearly identified in the District Plan. These Outcomes will link directly back to the Anticipated environmental results set out in the Strategic Management Area and to the principles of sustainability, lifestyle and values that are outlined in the Vision.

The District Plan can play an active part in defining, enhancing and protecting the amenity values of its environment in tandem with its own public amenity programmes. The District Plan deals with issues such as yards, sunlight, parking and other matters directly contributing to the health and amenity of the community; but the community must also be allowed to develop and create the environment that reflects its community, history and future. The District Plan identifies the use of design guides for development and the active recognition and protection of its Heritage Items in Section 18.1 of the Plan to assist in that process. There is also a Best Practice Design Guide for Subdivision and Infrastructure Development.

The District's Tangata Whenua have a special relationship to the land and the environment. The District Plan addresses their desire to re-establish communities on their traditional lands, and in traditional environments through Section 16.1 ~~Waahi~~ Tapu Wāhi Taonga and Section 21.1 Papakainga.



2.7.4 OBJECTIVES AND POLICIES

POLICY CEP5 *Ensure the protection of the characteristics of significance to tangata whenua and the significant natural and cultural character, heritage and scenic features of the coastal margin identified in the Coastal Environment.*

Explanation

The District Plan includes provisions through its Landscape, Conservation and Natural Areas, ~~Waahi Tapu~~Wāhi Taonga, and Heritage provisions which identify and provide for Objectives, Policies and Rules to protect significant elements in the coastal environment. Their continued promotion is important to protect the wider heritage values in the area, and to protect these values for future generations.



2.8.4 OBJECTIVES AND POLICIES

POLICY RRSP5

Establish mechanisms within the District Plan that will address the protection of outstanding landscape and natural areas, and items or areas of heritage or cultural significance, but which also maximise the opportunity to sustainably utilise the resources of the rural area.

Explanation

The District Plan will adopt a variety of mechanisms to recognise and protect Outstanding Natural Features and Landscapes and Significant Amenity landscapes, Natural Areas, Heritage sites and ~~Waahi~~ TapuWāhi Taonga. The District Plan will endeavour to avoid blanket controls, that impact on the ability of the landowners to successfully manage their properties. Rather, controls will be carefully targeted to enable activities to effectively avoid, remedy or mitigate their potential impact on the elements to be protected.

2.8.5 METHODS

These Objectives and Policies will be implemented through the following Methods:

HASTINGS DISTRICT PLAN

District Wide Activities:

These identify specific Resource Management features, and develop Policies, Rules and Methods to address these. The District Plan includes rules for ~~Waahi~~ TapuWāhi Taonga, Outstanding and Significant Landscapes and Heritage, all of which are well represented in the rural areas of the Hastings District.



3.1.1 INTRODUCTION

The Resource Management Act 1991 [the Act] provides for the special relationship of hapu, with Mana Whenua, who have responsibilities as kaitiaki over ancestral lands, water, sites of significance, outstanding natural landscapes, wāhi tapu, and other taonga.

3.1.3 STATUTORY CONTEXT: DUTIES UNDER THE ACT

- Section 6(e)- It is a matter of national importance to recognise and provide for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga.

3.1.5 PARTNERSHIP OBJECTIVE

In recognition of the statutory provisions of the Resource Management Act, including the principles of the Treaty of Waitangi, the Council acknowledges partnership as an objective in the management of the District's natural and physical resources in recognition of:

- The principles of the Treaty of Waitangi.
- The relationship of the tangata whenua and with their ancestral lands, water, sites, wāhi tapu and other taonga; and, in accordance with
- Kaitiakitanga through the development and enhancement of relationships; and

The need to encourage the development of iwi/hapu management plans.

3.1.7 COUNCIL WORKS WITH PUBLIC SECTOR AGENCIES

Council and central government agencies serve the tangata whenua in the District, and it serves the community better for those agencies and Council to work together on specific issues.

1. Council works in a collegial relationship with the Maori Land Court and Te Puni Kokiri, to harmonise practice to reduce procedural obstacles and encourage and facilitate, where appropriate, the development of papakainga on Maori Land.
2. Council works with Heritage New Zealand to ensure that sites in the District that are on the New Zealand Heritage List/ Rarangi Korero are incorporated in the Plan to inform the consents process and relate to the sections on Outstanding Landscapes, Heritage and **Wāhi Tapu** in a mutually appropriate way. The Council will also include archaeological sites recorded by the New Zealand Archaeological Association in the District Plan Maps.

3.1.8 PAKAINGA

Papakainga is housing development on Maori Land. At present 22% of the land within the District is registered as Maori land under Te Ture Whenua Act 1993. Papakainga housing development is provided for as a controlled activity in the Plan irrespective of zoning. Council acknowledges the aspiration of Maori landowners to occupy their land. The main objective is how we can promote papakainga development within the District, to benefit tangata whenua with mana whenua on their traditional whenua tapu. The provisions in the Papakainga section of the Plan provide for residential development that supports the maintenance of customary practices within current regulations.

The Native Land Act 1865 provided for collective ownership of Maori Land – and this remains the case today. Accordingly, the Objectives, Policies and Rules for Papakainga (Section 21.1) have been



designed in a flexible manner to allow for kainga as communal Whanau residential schemes. The Papakainga provisions are also consistent with the administration of the Maori Land Act 1993.

3.1.9 WAAHI-TAPU WĀHI TAONGA

Wāhi-Tapu Wāhi taonga sites are places held in respect by tāngata whenua with mana whenua. Under the Resource Management Act Council has specific obligations in relation to tāngata whenua with mana whenua, with a requirement to recognise and provide for ancestral lands, water, sites, wāhi tapu, and other taonga. In the District Plan, the term 'Wāhi Taonga' is defined to mean a site of significance to tāngata whenua and encompasses wāhi tapu and all other matters provided for under s 6(e) of the Act. Wāhi-Tapu Wāhi taonga sites may include old pā sites, burial grounds and caves, current cemeteries (urupā), battlefields, sacred rocks and trees, watercourses lakes and their edges and any other site of spiritual or cultural significance to iwi as defined locally by nga hapu who exercise kaitiakitanga over it.

The Wāhi-Tapu Wāhi Taonga section of the District Plan (Section 16.1) aims to identify land within the District which contains Wāhi-Tapu wāhi taonga sites and protect them from damage, modification, and destruction from subdivision and land use activities in order to meet Council's obligation under the Resource Management Act. In pursuing this goal Council must also balance the rights of landowners where Wāhi-Tapu wāhi taonga sites may exist. Accordingly the policies and rules of the Wāhi-Tapu Wāhi Taonga section of the District Plan endeavour to:

- Identify in consultation with tāngata whenua with mana whenua, the location of Wāhi-Tapu wāhi taonga in the Hastings District.
- Notify and consult with tāngata whenua with mana whenua on applications received by Council for Project Information Memoranda and Building Consents relating to land containing Wāhi-Tapu wāhi taonga.
- Notify and consult with tāngata whenua with mana whenua on applications received by the Council for Resource Consents for activities that will potentially affect such sites with the aim of discussing methods that could be used to avoid or mitigate damage to them. Accordingly this process will enable Council, landowners and the iwi or hapu to work through the development in a manner sensitive to the needs of tāngata whenua with mana whenua and landowners.
- Encourage landowner and tāngata whenua with mana whenua relationships for mutual understanding where Wāhi-Tapu wāhi taonga are sited on private land.



4.1.4.1 General Requirements

(d) An existing site plan (on size A3 or A4 paper) which shall incorporate (where appropriate):

- (i) A north point accurately orientated.
- (ii) A specified metric scale (eg. 1:100, 1:200, or 1:500).
- (iii) All certificate of title boundaries and their lengths.
- (iv) Topography, noting significant landforms and natural features, archaeological sites, waahi-tapu wāhi taonga and other heritage items or trees.
- (v) Watercourses and catchment orientation.
- (vi) All significant vegetation, including any vegetation located on adjacent road reserves or surrounding properties.
- (vii) Approximate distances to buildings on adjoining lots, or in the vicinity of the proposal.
- (viii) Road frontages.
- (ix) Existing buildings and structures, accessways, service lanes, parking areas and landscaping.
- (x) Position of all service connections.

(f) Assessment of the Effects on the Environment without limiting the provisions of Section 88(A), Section 92 and the Fourth Schedule of the Resource Management Act 1991.

- (iii) Any effects of the proposed activity on sites which have cultural or historic significance, including archaeological sites, Waahi-Tapu Wāhi Taonga, Heritage Items or Notable Trees.

4.1.5.1 General Requirements

(j) Earthworks

Details of the location and extent of any proposed earthworks, filling or landform changes and their actual or potential effects on the environment, including the control of sediment discharge into waterways. An assessment of the environmental effects of earthworks on visual amenity, land instability, water tables, indigenous vegetation, Waahi-Tapu wāhi taonga and archaeological sites.

(l) Heritage Sites or Objects

Details of any Waahi-Tapu Wāhi Taonga, Archaeological Sites, Heritage Items or Notable Trees located within the subdivision site and the ability of the subdivision to comply with the Rules of Sections 16.1 and 18.1 of the District Plan for these.



5.3.1 INTRODUCTION

The Rural Residential Zone is based on land that is of lower productivity than the Heretaunga Plains and is located within convenient commuting distances of Hastings and Napier. The Rural Residential lifestyle has proved to be very popular in the District. The pockets of Rural Residential Zone are located north of Napier at Kopaki Bay, Poraiti and off Seafield Road, inland from Bayview; and west of Napier on Swamp Road, Puketapu and between SH50 and Omarunui Road. To the West of Hastings, near Paki Paki is Enfield Rural Residential area that is located on a prominent hill overlooking Hastings and beyond. Near the coast are the areas known as Parkhill, Haumoana and Lightning Ridge at Waimarama. The Rural Residential land near Havelock North is included in the Havelock North SMA of this Plan.

Rural Residential sites are typically between 0.8 – 1.5 hectares in area, located on the outskirts of a town, with access to the amenities that both the rural and the urban environments bring. The Zone provides for those people who seek to live in a semi-rural environment, while remaining within close commuting distance to urban areas for employment, education, shopping, entertainment and recreation activities. In addition to providing a lifestyle choice the Rural Residential Zone also supports a range of specialist land use activities, which often require only small amounts of land, or are sustainable in a part-time or hobby capacity.

Rural Residential activity is a well-recognised and accepted part of the Hastings District's wider residential strategies. It provides a valuable residential resource that addresses demand in a particular sector of the housing market and assists the wider urban development strategy by reducing pressure for urban expansion onto the Heretaunga Plains. However the Heretaunga Plains Urban Development Strategy (2010) has identified that there is currently a surplus of lifestyle sites and this is projected to meet the needs of the District through to 2045.

The District's Rural Residential land resource is usually located on elevated sites that rise above the Heretaunga Plains. It is recognised that many of these areas are significant to the community as part of the landscape character of the Hastings District and that many of the areas also have significant cultural value to the tangata whenua and are often associated with waahi tapu wāhi taonga and/or archaeological sites. The continued development of the Rural Residential resource needs to consider these issues.



8.1.5 METHODS

HASTINGS DISTRICT PLAN Natural Landscapes & Features (Section 17.1), Heritage Items and Notable Trees (Section 18.1), and ~~Waahi Tapu~~Wāhi Taonga (Section 16.1): Each of these sections identifies sites and localities which contain sensitive landscape, natural, historic or cultural features which lifestyle activity will have to have regard to Subdivision and Land Development.

8.3.1 INTRODUCTION

Living on the outskirts of a town on a 1 hectare property, with access to the amenities that both the rural and the urban environment brings, has grown in popularity over a number of years. The Havelock North Rural Residential Zone is generally located on the hills close to the urban area of Havelock North and is generally land of lower fertility. The Zone provides for those people who seek to live in a semi-rural environment, while remaining within close commuting distance to urban areas for employment, education, shopping, entertainment and recreation activities.

In addition to providing a lifestyle choice the Havelock North Rural Residential Zone also supports a range of specialist land use activities, which often require only small amounts of land, or which are sustainable in a part-time or hobby capacity.

Rural Residential activity is a well recognised and accepted part of the Hastings District's wider residential strategies. It is the key component of the Hastings District's Low Density Residential Strategy and is recognised as providing a valuable residential resource that addresses demand in a particular sector of the housing market and assists the wider urban development strategy by reducing pressure for urban expansion onto the Heretaunga Plains.

Traditionally the Hastings District's Rural Residential resource has been located on elevated sites above the Heretaunga Plains. It is recognised that these areas are significant to the community as part of the landscape character of the Hastings District. Many of the areas also have significant cultural value to the Tangata Whenua, and are often associated with ~~Waahi Tapu~~wāhi taonga and/or archaeological sites. The continued development of the Rural Residential resource will need to address these issues.

The Havelock North Rural Residential Zone also contains a Significant Amenity Landscape Area that is scheduled in the Hastings District Plan. This is a landscape area that is to be treated with particular care to ensure the ongoing protection of its special landscape qualities. Significant Amenity Landscape Areas will be managed in Section 17.1 Natural Features and Landscapes, of the Plan in which developments will be required to have particular regard to the key elements, patterns and character that contribute to its significance.

The growth of Rural Residential development has also increased the potential interface issues between different land use activities. The management of these effects are addressed through the Rules of the District Plan.



11.1.6 METHODS

HASTINGS PLAN	DISTRICT	<u>Natural Landscapes & Features (Section 17.1), Heritage Items and Notable Trees (Section 18.1), and Waahi-TapuWāhi Taonga (Section 16.1):</u> Each of these sections identifies sites and localities which contain sensitive landscape, natural, historic or cultural features which lifestyle activity will have to have regard to Subdivision and Land Development.
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12.1.4 METHODS

Section 17.1 Natural Features and Landscapes, Section 18.1 Heritage Items and Notable Trees and Section 16.1 ~~Waahi-Tapu~~Wāhi Taonga: Each of these Sections identify sites and localities which contain sensitive landscape, natural, historic, or cultural features which development shall have regard to.



18.1.1 INTRODUCTION

Historic buildings, places, and notable trees are a significant feature of any district contributing to a sense of place and recognition of the history of the area. These features shape the areas in which they are located and provide the District with an identity. Historic features and notable trees are in some cases landmarks for the District. Buildings such as the Hawke's Bay Opera House (historically known as the Municipal Buildings) are a significant feature of the CBD, demonstrating the Spanish Mission style of architecture. Other architectural styles featured are the Art Deco, Colonial, Edwardian Commercial, Stripped Classical, and "Modern" themes.

The heritage features of the Hastings District are not simply limited to the Hastings CBD itself, but many significant Heritage Items and places are located in the wider Hastings urban area, Havelock North Village and throughout the rural area. Many buildings or areas are registered by Heritage New Zealand and most of these are listed in the District Plan. Heritage Items are listed in Appendices 47, 48 and 49 and Historic Areas are identified in Appendix 51.

Notable trees can provide a clear landmark, whilst others denote a particular historical event. Some trees are notable for their botanical rarity, sheer size, position in the landscape, scientific interest, age, form and condition, or functional value. Trees of outstanding heritage value have been identified under the Notable Trees Registration Scheme co-ordinated by the Royal New Zealand Institute of Horticulture. Trees have been assessed against the Standard Tree Evaluation Method (STEM) to determine condition of the tree, its amenity value and the notable value of the tree or group of trees. A STEM assessment is undertaken by a Council arborist and helps determine the level of protection required in the District Plan.

This Section of the District Plan specifically addresses heritage resources (Heritage Items and Historic Areas) and trees which have heritage value. The approach is to identify important Heritage Items and trees within the District and assign levels of classification for listing and regulatory protection. Outstanding Trees and Heritage Items are identified in Appendices 52 and 53 and shown on the District Planning Maps.

Legislation impacts on the way Council deals with heritage issues. Specific legislation includes the Heritage New Zealand Pouhere Taonga Act 2014 (HNZ Act) and the Resource Management Act 1991. The HNZ Act provides a framework for the identification and listing of historic buildings, historic areas, ~~Waahi Tapu~~ Wāhi Taongatapu and ~~Waahi Tapu~~ wāhi Taongatapu areas. Listing of buildings or land does not, however, offer direct protection under the HNZ Act. Listing is primarily a means of identifying the significant Heritage Items for the purposes of information and advocacy, with items listed by Heritage New Zealand notified to Territorial Authorities. Territorial Authorities are required to give the Trust notice of any resource or building consents which are issued on listed items.

There are legal responsibilities that relate to all archaeological sites, whether they are identified, unknown, listed or recorded. Section 42 of the HNZ Act 2014 makes it an offence for anyone to destroy, damage or modify the whole, or any part of any site, if it is known or suspected to be an archaeological site. Section 44 of the Act, however, allows an application to destroy, damage or modify an archaeological site to be made to the Heritage New Zealand.

Section 6(f) of the Resource Management Act requires the Council to recognise and provide for the protection of Historic Heritage Items from inappropriate subdivision, use, and development. To give effect to this obligation the District Plan needs to identify these. Section 193 of the Resource Management Act specifically enables protection for any historic building or feature through the placement of a Heritage Order. Consent cannot be applied for to destroy a building with a Heritage



Order. Currently there are no Heritage Orders applying in the Hastings District. The Council has the authority to act as a Heritage Protection Authority under the Act. Other Heritage Protection Authorities may also give notice to the Council of their requirement for a Heritage Order.

Individual reports for listed heritage buildings in the Hastings CBD are contained within the Hastings Heritage Inventory. This inventory sits outside of the District Plan but is listed as a Method through which this Section of the Plan is given effect to. The inventory reports contain detailed information about each building relating to its history, elements of architectural significance, and significance to Hastings. This document is a valuable resource for building owners and the community in understanding why these buildings are protected and how future development should take their history into consideration. The inventory also identifies several locally significant buildings in the CBD which are not listed in this Section of the District Plan, but still contribute to an overall heritage character in the CBD.



21.1.1 INTRODUCTION

The Resource Management Act 1991 includes obligations for those exercising functions and powers under the Act to provide for the special relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu and other taonga.

Traditional Māori culture is closely linked with the environment. When settlement originally occurred in Hawke's Bay it was traditionally located in close proximity to the abundant food resources of the Heretaunga Plains such as waterways, salt and fresh water fishing areas and shellfish gathering areas. These settlements traditionally included a ~~M~~marae which served as a focal point for daily life. It is important to Māori, therefore, that this tradition is able to continue in order to meet spiritual and cultural aspirations. Papakāinga is the development of housing generally for Māori people on Māori Land. The ability to live on traditional lands in Papakāinga developments is seen as a way in which Māori will be able to maintain and enhance their culture and traditions.

This Section of the District Plan specifically provides for Papakāinga (Māori Housing) as a District Wide Activity on Māori Land. The Objectives, Policies and Methods are designed in a flexible manner that encourages the sustainable use of land and resources by enabling services such as accessways, water supplies and package sewage treatment plants to be used by multiple dwellings over time as needed. However, this does not preclude the development of single home sites if this is wanted by the owners.

Papakāinga development on traditional Māori Land will be considered on land identified as Māori Land under the Te Ture Whenua Māori Act 1993. However it is recognised that a number of land titles were taken by the Registrar as a Status Declaration under Part 1 of the Māori Affairs Amendment Act 1967. This Act allowed for the Crown to change the status of Māori owned land if it was not deemed to be 'suitable for effective use and occupation'. A number of these sites were declared General Land by the Crown between 1967 and 1973, often without the knowledge of the owners of the sites. A number of these titles have remained in the ownership of the descendants ever since, and the owners/hapū/whānau still have aspirations to live on their land.

This Section of the Plan has been designed to ensure that Papakāinga development provides for Māori who have aspirations to develop their traditional lands and to meet their housing needs and cultural aspirations.

The preparation of Development Plans can be a means to guide the development of Papakāinga. Development Plans will reflect the aspirations of the Hapū and serve as a guide for development in the future. Council will encourage the development of these plans. Although these documents will be a key factor in ensuring that Māori Land is developed in accordance with the wishes of the Hapū, Development Plans will not be included as part of the District Plan. This will enable the Development Plans to remain flexible and recognise the potential of the land and resources and the needs of future generations at all times.

21.1.2 ANTICIPATED OUTCOMES

PKAO1 Maintenance or improvement of the Māori quality of life consistent with cultural values, aspirations and customs in relation to traditional lands, water, sites, wāhi tapu and other taonga (treasures).



22.1.1 INTRODUCTION

Network Utilities are an essential part of the District's infrastructure and their efficient and effective supply and maintenance is important for the functioning of the District and in facilitating and maintaining the health, safety and general wellbeing of its residents. Network Utilities include: water systems, sewerage and trade waste systems, stormwater drainage systems, roading networks, railway lines, telecommunication and radio communication networks, electricity and gas reticulation networks. This section of the District Plan applies to Network Utility Operators who do not wish, or are unable, to operate under the designation procedures of the Resource Management Act 1991.

Under the Resource Management Act 1991, the Council is required to manage the effects of the use and development of Network Utilities on the environment, as it must for other land use activities. Given the essential role which Network Utilities perform, it is recognised that utility operators require certainty as to those works which can proceed without Resource Consent applications and those which do require Consent. The District Plan provisions generally perform an enabling role where it provides for a wide range of works subject to performance standards.

The provisions covering Network Utilities are set out as District Wide Activities. Because many Network Utilities are lineal, and traverse many parts of the District, it is considered appropriate that a single set of rules are provided which apply across the District. Such rules may however be overridden by protection and conservation District Wide Activity rules, such as those relating to the ~~Waahi Tapu~~ Wāhi Taonga, Landscapes and Natural Features, and Heritage, if an activity is located in such an area.

The National Environmental Standards are regulations made under the Resource Management Act 1991. Network Utilities that operate under a National Environmental Standard may be exempt from the rules of the District Plan. Alternatively, National Environmental Standards may alter the activity status of activities with this plan, and additional standards, matters for assessment and criteria may apply. The Council is responsible for applying and enforcing the provisions of National Environmental Standards.

Amateur radio is provided for within the Network Utilities section, even though it is not strictly a Network Utility by definition. Amateur Radio is however provided for in this section of the District Plan to enable a district wide approach as some of the structures and equipment involved is similar in scale and character to some network utility facilities.

22.1.4 METHODS

HASTINGS DISTRICT PLAN Section 16.1 ~~Waahi Tapu~~ Wāhi Taonga DWA: Activities which involve ground disturbance on sites identified as containing ~~Waahi Tapu~~ wāhi taonga will be restricted to ensure that the ~~Taonga-mauri~~ of them can be protected from disturbance or destruction.



23.1.4 METHODS

HASTINGS DISTRICT PLAN Section 16.1 ~~Waahi Tapu~~ **Wāhi Taonga** DWA: This section of the District Plan recognises that traditional Maori culture and values are closely linked to the environment. The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga is a matter of national importance under the Act. Tāngata whenua and Council have endeavoured to identify ~~Waahi Tapu~~ **wāhi taonga**, some sites are not disclosed because of their sacredness.

23.1.7 ASSESSMENT CRITERIA

23.1.7.1 Restricted Discretionary Activities

For Restricted Discretionary Activities, the following criteria identify those matters which Council has restricted its discretion over in assessing Resource Consent applications:

- (a) The extent to which the adjacent properties will be adversely affected in terms of visual domination, overshadowing, loss of privacy and loss of access to sunlight and daylight, and the ability to mitigate any adverse effects; and
- (b) The character, level and duration of noise as received at the boundary, or notional boundary of another site; and
- (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, or ~~Wāhi Tapu and~~ **Wāhi Taonga** included in Appendices 43, 44, 56 and 50.
- (d) Location and scale of Wind Monitoring Mast along with associated structures
 - i. Special technical requirements and constraints of the wind monitoring mast.
 - ii. The safe operation of rural airstrips and aviation.

23.1.7.2 Discretionary Activities

- (f) The actual and potential effects of the proposal, with particular consideration of the following:
 - (i) Where the proposal is located within Natural Features and Landscapes identified in Appendix 43, 44, 45, and 46, the effects of the proposal on the identified values of the natural feature and landscape;
 - (ii) the extent to which the proposal will affect the natural character of the coastal environment and rural environment;
 - (iii) the extent to which the proposal will adversely affect cultural values, including on ~~Wāhi Tapu and~~ **wāhi taonga** identified in Appendix 50;
 - (iv) the extent to which the proposal will adversely impact on dwellings, key public places including major roads and recreation areas;
 - (v) the extent to which any aspects of the proposal can be sited underground where practicable.



26.1.1 INTRODUCTION

The Transport Network is a crucial component of the District's economy and it also contributes significantly to the social wellbeing of the community. Almost all activities generate or attract vehicle movement and it is important that these movements are achieved efficiently and effectively and safely. The provision of convenient and safe access, parking, and loading are part of achieving an efficient traffic network.

Where parking and loading facilities are not available on-site this will usually occur on the street. This may have adverse effects on the safety and efficiency of roads where there are high traffic and pedestrian volumes. Part of the successful management of the transport network is identifying the principal function of the roads that form the road network in the District. A road hierarchy has been developed and is appended to this Section of the District Plan. The road hierarchy outlines the purpose that each road fulfils and land use and access provisions are related to the function to ensure that the road network operates in a safe and efficient manner. This is the integrated approach to transport planning where routes and land uses are both components in the transport network.

Central to an integrated approach is consideration of alternative transport modes. This is an important component in the Hastings District Transport Network to achieve its sustainability principles and to support Hastings Cycling Model Community goals. The changing characteristics of the Hastings District Community should be taken into account when considering sustainable transport. The aging of the community will result in less people driving and more pressure being put on pedestrian facilities and the public transport system. Similarly younger generations are less inclined to be car focussed and more readily adopt alternative modes of transport.

Further, the use of rail to transport goods to and from the District and Region is an integral part of Hastings transport network, and recognition needs to be given to the effects of inappropriate new development on the use of the railway network (reverse sensitivity). Appropriate safety measures for crossing the rail network also need to be considered.

The provisions covering Transport and Parking are set out within this stand alone section of the Hastings District Plan, and provide for Transport and Parking as District Wide Activities. Because transport networks are lineal and traverse many parts of the District, it is considered appropriate that a single set of rules are provided which apply across the District. Such rules may however be overridden by protection and conservation DWA rules, such as those relating to Waahi Tapu Wāhi Taonga, or Landscapes and Heritage if an activity is located in such an area.

Traffic associated with activities may also have effects unrelated to the outcomes in this part of the Plan, such as effects on residential amenity. These effects may be covered elsewhere in the Plan and may mean that conditions of consent can be imposed requiring the standards in this section to be exceeded. An example of this would be the effect that traffic generation associated with an early childhood centre in a residential zone would have on the amenity of the neighbourhood. This may require an on-site parking condition to a level that is higher than that required in the Transport and Parking section.



27.1.4 METHODS

HASTINGS DISTRICT PLAN

Wāhi Tapu Wāhi Taonga DWA(Section 16.1): Includes Rules to recognise and protect wāhi tapu wāhi taonga sites from the effects of earthworks.



30.1.1 INTRODUCTION

Subdivision is the legal mechanism for changing the boundaries, shape, and area, of parcels of land. The definition of the subdivision of land under Section 218 of the Resource Management Act 1991 includes cross-leases, company lease and unit title developments, and long term leases (35 years or more). The Act distinguishes subdivision as a category of activity distinct from land use activities.

While the process of subdivision itself does not directly affect the environment, it establishes the legal framework within which land use occurs and thereby has an indirect but causal link with the adverse effects of resource use and development. Much of the potential for adverse effects, therefore, can be addressed at the subdivision stage. Subdivision is also usually the immediate precursor to further land development, and providing for adequate works and services can be achieved through conditions of subdivision consent.

The Council intends to ensure, at the time of subdivision, that the land involved is suitable for the range of activities allowed by the rules of the District Plan.

Activities, including the development and subsequent use of land, can have positive effects and a range of adverse effects on the environment. Adverse effects which the Plan seeks to manage, include:

- Damaging or destroying the natural environment and/or the quality of natural resources
- Degrading those amenity values of an area which people enjoy
- Increasing the risks posed by natural hazards
- Creating an inefficient use of finite resources
- Limiting the ability of people (including future generations) to have access to and/or make use of natural and physical resources
- Damaging or destroying the heritage values of natural and physical resources
- Adversely affecting people's health and safety
- Degrading the natural character of the coastal environment, wetlands, lakes and rivers and their margins
- Diminishing the value of outstanding natural features and landscapes
- Degrading the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga
- Adversely affecting the integrated, safe, responsive, and sustainable operation of the roading network including the State Highway network.
- Reverse sensitivity, where new sensitive land uses could potentially lead to constraints on the carrying out of existing uses.

30.1.4 METHODS

HASTINGS DISTRICT PLAN

Wāhi Tapu Wāhi Taonga DWA (Section 16.1):

Identifies the Wāhi Tapu wāhi taonga sites that are listed. Such sites could be adversely affected by development enabled, and earthworks resulting from subdivision.



30.1.5 RULES

SLD22	<p>Wāhi Tapu and Wāhi Taonga and Heritage Items</p> <p>Subdivisions of sites involving listed wāhi tapu and wāhi taonga and heritage items where a proposed boundary line bisects or separates an identified wāhi tapu and wāhi taonga (listed in Appendix 50) or heritage item (see appendix 47 and 48) into two or more different titles which comply with all the relevant Subdivision Site and General Site Performance Standards and Terms specified in 30.1.6 and 30.1.7.</p>	D
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30.1.8.1 GENERAL ASSESSMENT CRITERIA

6. Building Platforms

Council will have regard to the following:

- (i) The protection of any listed ~~waahi tapu~~wāhi taonga or heritage item.
- (ii) The potential for reverse sensitivity issues where building platforms are proposed to be located within close proximity to existing or Consented Network Utility or Renewable Electricity Generation Activities.

30.1.8.2 SPECIFIC ASSESSMENT CRITERIA

4. Sites In The Rural Residential SMA/Zone, Where Located On Land Comprising Outstanding Natural Features And Landscapes Or Significant Amenity Landscapes (Refer Section 17.1, Appendices 43 and 44)

The design of the subdivision to ensure that of itself, or as a consequence of the development it will accommodate, it will not have adverse visual or landscape effects. Reference will be made to the proposed nature and location of building platforms, roads and accessways, earthworks, landscaping and planting. In particular, in assessing the development, regard will be had to the following:

- (vii) The protection of any listed ~~waahi tapu~~wāhi taonga.

5. Sites In The Rural SMA/Zone, Where Located On Land Comprising Outstanding Natural Features And Landscapes (Refer Section 17.1 and Appendices 43 and 44)

The design of the subdivision to ensure that of itself, or as a consequence of the development it will accommodate, it will not have adverse visual or landscape effects. Reference will be made to the proposed nature and location of building platforms, roads and accessways, earthworks, landscaping and planting. In particular, the development will be assessed in terms of its ability to achieve the following:

- (vii) Be sympathetic to the protection of the significance of any listed ~~waahi tapu~~wāhi taonga.

Lifestyle sites in the Rural Zone, where located on land comprising ONFL5, ONFL6, SAL6, SAL7 or SAL8 (refer Section 17.1 and Appendices 43 and 44) or any other site



having frontage to the coastline (including sites separated from the coast only by a legal road (formed or unformed)) and subdivisions in the Rural or Nature Preservation Zone, Where: All or part of a site is located within the coastal environment (as shown on the Hastings District Planning Maps) and where that Subdivision creates any additional development rights on that part of the site located within the coastal environment (as shown indicatively in Appendix 67).

The design of the subdivision and the development it will accommodate, to ensure that of itself, or as a consequence of the development it will accommodate, it will not have adverse visual or landscape effects and will not detract from the natural character of the coastal environment. Reference will be made to the proposed nature and location of building platforms, roads and accessways, earthworks, landscaping and planting. In particular, the development will be assessed in terms of its ability to achieve the following:

- (viii) Be designed to avoid, remedy or mitigate any adverse effects on any ~~waahi~~ tapuwāhi taonga, archaeological site, or any other area of historic or cultural significance.
- (ix) Be sympathetic to the protection of the significance of any listed ~~waahi~~ tapuwāhi taonga.

8. Esplanades

Council will have regard to the following:

- (iii) Whether a waiver or reduction of the width of an esplanade reserve/esplanade strip will:
 - (a) Ensure the security of private property or the safety of people.
- (b) Maintain or enhance the protection of ~~Whi Tapu~~, wāhi taonga including wāhi tapu and mahinga kai and ~~other taonga~~, as well as the provision of access to areas of importance to Maori.

10. Residential Farm Parks

Council will have regard to the extent to which the design and layout and management structure of the residential farm park takes into account the following:

- (ix) ~~Waahi Tapu~~ Wāhi taonga sites.

13. Subdivisions within the Rural Zone, subject to Table 30.1.6A (Rural SMA) and the 3 Year Rural Lifestyle and Rural (Residential Farm Park) Provisions in Table 30.1.6B

Council will have regard to the following:

- (h) Whether the design of the subdivision and the development it will accommodate, is designed to avoid, remedy or mitigate any adverse effects



on any ~~Waahi-tapu~~wāhi taonga, archaeological site or any other area of historic or cultural significance.

20. **Subdivisions in the Cape Kidnappers Building and Infrastructure Development Node Areas shown on Appendix 23: Figure 1**

In addition to the relevant General Assessment Criteria in 30.1.8.1, Council will have regard to:

- (h) The avoidance of any development on archaeological and ~~Waahi-Tapu~~wāhi taonga sites



33.1.2 DEFINITIONS

Maintenance: When used in conjunction with 16.1.5 (~~Waahi Tapu~~ Wāhi Taonga DWA) Rules WT1 and WT2, means keeping the site in a tidy condition including light grazing or spraying for weed control.

