
Monday, 21 June 2021

Te Hui o Te Kaunihera ā-Rohe o Heretaunga
Hastings District Council
Hearings Committee Meeting

Kaupapataka

Agenda

Plan Change 3 - Marae in Rural/Plains Production Zones

Te Rā Hui:
Meeting date: **Monday, 21 June 2021**

Te Wā:
Time: **9.30am**

Te Wāhi:
Venue: **Council Chamber
Ground Floor
Civic Administration Building
Lyndon Road East
Hastings**

Te Hoapā:
Contact: **Democracy and Governance Services
P: 06 871 5000 | E: democracy@hdc.govt.nz**

Te Āpiha Matua:
Responsible
Officer: **Group Manager: Planning & Regulatory Services - John
O'Shaughnessy**

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Hearings Committee – Terms of Reference

Fields of Activity

The Hearings Committee is established to assist the Council by hearing and determining matters where a formal hearing is required in respect of a planning or regulatory function of the Council, including under the provisions of the:

- Resource Management Act 1991
- Building Act 2004
- Health Act 1956
- Dog Control Act 1996
- Litter Act 1979
- Hastings District Council Bylaws
- Local Government Act 1974
- Local Government Act 2002; and
- Hastings District Council Class 4 Gambling Venue Policy.

Membership - Up to 12 Hearings Commissioners (comprising at least 7 elected members of Council and up to 3 externally appointed Independent Hearings Commissioners)

- Chair appointed by Council from the membership including externally appointed members.
- Deputy Chair appointed by the Council from the membership including externally appointed members.
- Under section 39B of the Resource Management Act, the Chair must be accredited, and unless there are exceptional circumstances, appointees on hearings panels must have accreditation to make decisions on;
 - Applications for Resource Consents.
 - Notice of Requirements given under section 168 or 189.
 - Requests under clause 21(1) of Schedule 1 for a change to be made to a Plan.
 - Reviews of Resource Consents.
 - Applications to change or cancel Resource Consent Conditions.
 - Proposed Policy Statements and plans that have been notified.
 - Any hearing of an objection under section 357C.

Quorum*

- a) For Hearings other than Council Initiated Plan Change hearings, a maximum of three members including the Chair (or Deputy Chair, in the Chair's absence) to meet for any one hearing.
 - b) For Council Initiated Plan Change hearings, all members may attend and take part in the decision-making process unless the Chair exercises the power of delegation to assign any function, power or duty of the Hearings Panel to any one or more Commissioners.
 - c) For Hearings other than Council Initiated Plan Change hearings the quorum shall be two members.
 - d) For Council Initiated Plan Change Hearings, the quorum shall be three members.
 - e) Members to sit on any hearing other than a Council Initiated Plan Change Hearing shall be selected by agreement between the Chair (or Deputy Chair, in the Chair's absence) and the Group Manager: Planning and Regulatory Services.
1. For the purpose of hearing any objection in respect of the matters detailed under the Dog Control Act 1996 the Hearings Committee will consist of any three members selected by the Chair.

Monday, 21 June 2021

Te Hui o Te Kaunihara ā-Rohe o Heretaunga

Hastings District Council: Hearings Committee Meeting

Kaupapataka

Agenda

Panel Members Rostered on for this hearing:

Ngā mema o te Komiti

Committee Members:

Chair: George Lyons (Commissioner Chair - External appointee)
Councillors Bayden Barber (Deputy Chair), Alwyn Corban, Tania Kerr, Eileen Lawson, Wendy Schollum and Sophie Siers; and
Peter Kay (External appointee member); and
Robin Hape - Heretaunga Takoto Noa Māori Standing Committee appointee

Vacancy – 1 member

Apiha Matua

Officer Responsible:

Group Manager: Planning and Regulatory Services - John O'Shaughnessy

Reporting Planner

Senior Environmental Planner (Policy) – James Minehan

Te Rōpū Manapori me te Kāwanatanga

Democracy

Governance Services

Christine Hilton (Ext 5633)

Te Rārangī Take

Order of Business

Apologies & Leave of Absence – Ngā Whakapāhatanga me te Wehenga ā-Hui

- 1.0 At the close of the agenda an apology for absence had been received from Councillor Wendy Schollum.
-

Plan Change 3 – Providing for Marae in the Rural and Plains Production Zone

- 2.0 **DOCUMENTS CIRCULATED FOR HEARING - COMPILED AS TWO SEPARATE DOCUMENTS**

Document 1 The covering administrative report **Pg 1**

Attachment A Section 42A Hearing Report **Pg 3**

Monday, 21 June 2021

Te Hui o Te Kaunihera ā-Rohe o Heretaunga
Hastings District Council: Hearings Committee
Meeting

Item 2

Te Rārangi Take

Report to Hearings Committee

Nā:
From: **Christine Hilton, Democracy and Governance Advisor**

Te Take: **Plan Change 3 – Providing for Marae in the Rural and Plains**
Subject: **Production Zone**

1.0 Purpose and summary - *Te Kaupapa Me Te Whakarāpopototanga*

- 1.1 This is a covering report relating to the Proposed Hastings District Plan hearing – Plan Change 3, Providing for Marae in the Rural and Plains Production Zone.
- 1.2 This agenda can be viewed on the Council’s website and a reference hardcopy is held at the Ground Floor Reception, Council’s Civic Administration Building, Lyndon Road East, Hastings.
- 1.3 The recommendations are included in the relevant sections of the attached Planner’s Report and are not summarised in this covering report.

2.0 Recommendations – *Ngā Tūtohunga*

- A) That the covering report titled Plan Change 3 – Providing for Marae in the Rural and Plains Production Zone, the hearing report and associated attachments, dated 21 June 2021, be received.

Attachments:

A ↓	Section 42A Hearing Report	ENV-9-19-10-21-36	
B ⇨	Section 32 Evaluation Rpt	ENV-9-19-10-20-9	Document 2
C ⇨	Details of Plan Change	ENV-9-19-10-20-8	Document 2

D	Submission from Fire and Emergency NZ (FENZ)	CG-16-8-00202	Document 2
E	Submission from Te Taiwhenua o Heretaunga Trust - Marei Apatu	CG-16-8-00203	Document 2
F	Submission from Heritage NZ Pouhere Taonga - HNZPT	CG-16-8-00204	Document 2
G	Further Submission from Dr J Graham, Pukehou Marae	CG-16-8-00205	Document 2

**SECTION 42A REPORT (REPORTS TO LOCAL AUTHORITY RESOURCE
MANAGEMENT ACT 1991)**

SUBJECT

**PLAN CHANGE 3 “PROVIDING FOR MARAE IN THE RURAL ZONE AND
PLAINS PRODUCTION ZONE”**

HEARING DATE

MONDAY 25 JUNE 2021

CONTENTS

1. Introduction
2. Scope of Hearing
3. Background
4. Statutory Considerations
5. Submissions
6. Topic 1 Full Support
7. Topic 2 Firefighting Water Supply

1.0 INTRODUCTION

- 1.1 This report assesses the submissions and further submissions that have been received in relation to Plan Change 3 to the Hastings District Plan.
- 1.2 The report recommends whether each submission should be accepted, accepted in part or rejected and whether any amendments need to be made to the District Plan.

2.0 SCOPE OF HEARING

- 2.1 The hearing addresses the following parts of the Proposed Plan:
 - Section 5.2 – Rural Zone
 - Section 6.2 – Plains Production Zone

3.0 BACKGROUND

- 3.1 The proposal is to incorporate amendments to the District Plan to provide a more permissive approach for marae in rural areas by identifying them as a Permitted Activity in the Rural Zone and the Plains Production Zone.
- 3.2 This will correct an omission that occurred when the District Plan was reviewed that resulted in marae being treated as a non-complying activity.
- 3.3 The outline and detail of the proposed plan change is attached.
- 3.4 The accompanying Section 32 Summary Evaluation Report is also attached.

4.0 STATUTORY CONSIDERATIONS

- 4.1 Assessing the submissions under the Resource Management Act 1991 requires several matters to be considered. These are outlined under the headings below.
- 4.2 **First Schedule Preparation, change, and review of policy statements and plans**
- 4.3 Clause 6(1) states that once a proposed policy statement or plan is publicly notified under clause 5, any person may make a submission, provided that person will not gain an advantage in trade competition through the submission. The submitters are therefore able to request amendments as per their submissions to the Plan Change.
- 4.4 **Section 74 Matters to be considered by the territorial authority**
- 4.5 Section 74 of the Act sets out the overall statutory framework against which the submissions and the plan change must be considered and assessed.
- 4.6 Under Section 74(1) a territorial authority shall prepare and change its district plan in accordance with its functions under section 31, the provisions of Part 2 (Purpose and principles), its duty under section 32 (Requirements for preparing and publishing evaluation reports), and any regulations.

- 4.7 Under Section 74 (2) a territorial authority shall have regard to any proposed regional policy statement or regional plan; management plans and strategies prepared under other Acts; relevant entries on the New Zealand Heritage List; regulations relating to sustainability of fisheries resources; relevant project area and project objectives of the Urban Development Act 2020; and plans or proposed plans of adjacent territorial authorities. A territorial authority must take into account any relevant planning documents recognized by iwi authorities and lodged with the territorial authority.
- 4.8 Proposed Plan Change 3 assists in meeting the following objectives from the Regional Policy statement and ensures that the cultural values of Tangata Whenua are recognized and provided for.

Objective 34 To recognize tikanga Maori values and the contribution they make to sustainable development and the fulfilment of HBRC's role as guardians, as established under the RMA, and tangata whenua roles as kaitiaki, in keeping with Maori culture and traditions.

Objective 35 To consult with Maori in a manner that creates effective resource management outcomes.

- 4.9 Under Section 74(3) in preparing or changing any district plan, a territorial authority must not have regard to trade competition or the effects of trade competition. There is no trade competition issues associated with this plan change or with the submissions lodged.

4.10 **Section 75 Contents of Plans**

- 4.11 The requirements of Section 75(3) state that a district plan must give effect to any national policy statement, any New Zealand coastal policy statement, a national planning standard and any regional policy statement. Under Section 75(4) must not be inconsistent with a water conservation order, or a regional plan for any matter specified in section 30(1).

4.12 **Section 31 Functions of territorial authorities**

- 4.13 Section 31 of the Act sets out the functions of the Council as a territorial authority. These include:

- The establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district.
- The establishment, implementation, and review of objectives, policies, and methods to ensure that there is sufficient development capacity in respect of housing and business land to meet the expected demands of the district.
- The control of any actual or potential effects of the use development, or protection of land
- The control of the emission of noise and the mitigation of the effects of noise.

- The control of any actual or potential effects of activities in relation to the surface of water in rivers and lakes.
- Any other functions specified in this Act.

The methods used to carry out any functions may include the control of subdivision.

4.14 Section 32 Requirements for preparing and publishing evaluation reports

4.15 Clause 5(1) of Schedule 1 of the RMA, requires preparation of an evaluation report for any proposed plan in accordance with section 32. Councils are to have particular regard to that report when deciding whether to proceed with the statement or plan.

4.16 Section 32 evaluations outline the background to any proposed plan change and the reasons behind it.

4.17 Part 2 of the Act

4.18 Part 2 of the Resource Management Act sets out the Purpose and Principles of the Act. These relate to the sustainable management of the natural and physical resources of the district in a way that enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety. It outlines matters of national importance, other matters, and Treaty of Waitangi issues. These matters are fully discussed in the Section 32 Summary Evaluation Report. It can be noted, however, that under Section 6(e) of the Act, the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga is a matter of national importance.

4.19 Section 8 of the RMA places a duty on Council to take into account the principles of the Treaty of Waitangi. This recognizes the principle of active protection of Maori in the use of their lands and other taonga and the guarantee of tino rangatiratanga being consistent with Article II.

4.20 The Treaty also guarantees to Maori the retention of property rights under Article II and the choice of developing those rights under Article III. Plan Change 3 facilitates this.

5.0 SUBMISSIONS

5.1 Original Submissions

5.2 There are three submissions to the proposed plan change. Two are in full support. One is in general support however, requests an amendment to the specific performance standards and assessment criteria to account for firefighting water supply.

5.3 Further Submissions

5.4 There was one further submission. While the further submission was on a Form 6 “Further Submissions” it stated general support for the plan change. It has been received as a further submission in support of the proposed plan change.

5.5 A table summary of the submissions is contained in the attachments to this report.

5.6 Full copies of the above submissions are contained in the attachments to this report.

5.7 Submissions Analysis

5.8 This part of the report evaluates the issues raised by the submitters. Each submission will be considered in respect to Section 32 of the Resource Management Act 1991.

5.9 TOPIC 1 – FULL SUPPORT FOR PLAN CHANGE 3

5.10 SUBMITTERS

The submitters are Heritage New Zealand Pouhere Taonga; Te Taiwhenua o Heretaunga Trust; and Further Submitter Pukehou Marae. All are in full support of the plan change.

5.11 ANALYSIS

5.12 The submitters have expressed support for the plan change noting that it provides for Maori communities to develop their own resources with fewer administrative hurdles; recognizes marae rangatiratanga; is a “no brainer” and great to see it is now being addressed.

5.13 These submissions are consistent with the findings of the Section 32 analysis and therefore require no additional evaluation.

5.14 RECOMMENDATION – TOPIC 1 – FULL SUPPORT FOR PLAN CHANGE 3

That the submissions of Heritage New Zealand Pouhere Taonga; Te Taiwhenua o Heretaunga; and the further submission from Pukehou Marae in support of Plan Change 3 be accepted.

5.15 REASONS

That these submissions are consistent with the findings of the Section 32 evaluation. This concluded that the proposed plan change is the most efficient and effective way to achieve the purpose of the RMA and particularly duties under Section 6 and 8. Also to achieve the stated objectives identified for marae development in the Rural Zone and Plains Production Zone.

6.0 TOPIC 2 – FIREFIGHTING WATER SUPPLY

6.1 SUBMITTER'S REQUEST

- 6.2 Fire and Emergency New Zealand (FENZ) have requested an addition to the specific performance standards and assessment criteria as follows:

5.2.6 Specific Performance Standards

FIRE FIGHTING WATER SUPPLY

Provision of water supply for firefighting purposes in accordance with the New Zealand Fire Service Firefighting Code of Practice SNZ PAS 4509:2008

5.2.8 Assessment Criteria – Restricted Discretionary and Discretionary Activities

Whether the site can be adequately serviced including water supply for firefighting purposes in accordance with the New Zealand Fire Service Firefighting Code of practice SNZ PAS 4509:2008

6.3 ANALYSIS

- 6.4 FENZ notes that the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008 is a non-mandatory New Zealand standard that sets out the requirements for firefighting water and access.
- 6.5 They note that it is important that any new dwelling or land use that does not have access to a reticulated water supply has access to an adequate firefighting water supply. The requirement for firefighting water supply is critical as habitable buildings (Marae) in the rural areas are unlikely to have access to reticulated water supply which increases the risk posed by fire to both property and life. They state that this essential emergency water supply will provide for the health, safety and wellbeing of people and the wider community and therefore achieves the purpose of the RMA.
- 6.6 Therefore FENZ states the best way to provide a consistent approach to mitigating the actual and potential effects of fire across the district is to include specific standards in district plans i.e. in this case add a reference to the Code of Practice SNZ PAS 4509:2008 in the specific standard 5.2.6 and the assessment criteria 5.2.8.
- 6.7 This is not the first time this issue has been considered by Council. It came up when FENZ made a submission (14 February 2014) to the proposed District Plan (env-9-17-4-1-14-190).
- 6.8 The submission supported the general references to adequate water supply, fire control and suppression, and health and safety aspects, in the Outcomes, Objectives and Policies in Part D Subdivision and Land Development (30.1). However FENZ requested more specific references to the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008. This included in Section 30.1.7 General Site Performance Standards and Terms - 30.1.7B Water Supply Water Supply; and in Section 30.1.8 Assessment Criteria Controlled, Restricted Discretionary and Discretionary

- Activities - 30.1.8.1 General Assessment Criteria 4. Water Supply, Wastewater Disposal, Stormwater Disposal.
- 6.9 The approach Council took was to confirm the general references to providing adequate water supply in rural areas and the specific reference to the Code of Practice (SNZ PAS 4509:2008) in the Methods Section.
- 6.10 Also, in the General Site Performance Standards and Terms (Section 30.1.7) the reference to water supply (30.1.7B) was confirmed. Specifically mentioned were sites not connected to public reticulated water and the requirement to indicate how an alternative and satisfactory water supply would be provided.
- 6.11 It was considered that an alternative and satisfactory water supply was generally one that met the HDC Engineering Code of Practice. This in turn identifies the need to discuss development proposals with the NZ Fire Service and for the need to provide adequate on site water supply in rural developments including for firefighting services.
- 6.12 Therefore this was considered the appropriate means for dealing with water supply for firefighting purposes in rural areas i.e. via the HDC Engineering Code of Practice, not by specifying a specific rule.
- 6.13 For the purposes of clarity, the general and specific references to water supply, including for firefighting purposes, that are in the District Plan are indicated below.
- 6.14 POLICY SLDP8 states:
- Ensure provision of onsite services for water supply, wastewater disposal and stormwater disposal for sites outside of the reticulated urban areas unless the provision of reticulated services is identified as an appropriate work to mitigate adverse effects on the environment.
- 6.15 POLICY SLDP9 states:
- Ensure that where sites are not connected to a public water supply, wastewater disposal or stormwater disposal system, suitable provision can be made on each site for an alternative water supply or method of wastewater disposal or stormwater disposal, which can protect the health and safety of residents and can avoid any significant adverse effects on the environment.*
- 6.16 SLDAO10 (Section 30.1.2 Anticipated Outcomes) states:
- Provision of a water supply of suitable quality and quantity to meet the needs of likely or potential land uses on the sites, including water for fire control and suppression.*
- 6.17 Methods (Section 30.1.4) states:
- The New Zealand Fire Service Fire-Fighting Water Supplies Code of Practice SNZ PAS 4509:2008 applies to all a new subdivision and development in all areas, for both reticulated and non-reticulated water supplies.*

6.18 In the General Site Performance Standards and Terms (Section 30.1.7) there is reference to water supply.

6.19 Water Supply (30.1.7B) states:

Where the new site will not be connected to a public reticulated water supply, or where an additional level of service is required that exceeds the level of service provided by the reticulated system, the subdivider shall demonstrate how an alternative and satisfactory water supply can be provided to each site.

6.20 An alternative and satisfactory water supply is generally one that meets the Hastings District Council Engineering Code of Practice.

6.21 In the Methods (30.1.4) under the heading Hastings Engineering Code of Practice it states:

The Hastings District Council has an Engineering Code of Practice which is updated and consulted on as part of the Annual Plan process, as and when significant changes occur to warrant an update. The Engineering Code of Practice establishes Standards for the design and construction of roading and service infrastructure, which can be used as a means of compliance with the Objectives, Policies and Rules of the District Plan.

6.22 The HDC Engineering Code of Practice in turn makes reference to consulting with various parties when looking at any development proposal, including the New Zealand Fire Service (Part Two Development Principles, Section 1 Design Process, (iv) Consultation). This states:

(iv) Consultation - Discuss the development proposal with parties who may have an interest in the development including: New Zealand Fire Service

6.23 There is also reference to providing adequate on site water supply, including for firefighting purposes, in rural locations (Part Three Engineering Requirements, Section 1 General Requirements and Procedures, Section 1.6 Engineering Services). This states:

1.6 Engineering Services - Engineering services required for a development shall be provided in accordance with Council requirements, and could include the design and provision of:

For rural developments:

(d) On site water supply or restricted water supply reticulation if a public system is available, including for firefighting services;

6.24 In conclusion, to insert additional rules in the marae provisions is considered unnecessary regulation and would mean that marae are singled out in the District Plan for different treatment on this specific issue.

6.25 It is not considered necessary to add to the standards and assessment criteria, relating to marae, as there is already adequate provision in the District Plan for providing on site water supply including for firefighting purposes. This issue is clearly identified in Part D Subdivision and Land Development (30.1) including a specific reference to the Code of Practice (SNZ PAS 4509:2008)

in the Methods Section. In the General Site Performance Standard (30.1.7 B Water Supply) there is a reference to alternative solutions. The Engineering Code of Practice then refers to discussing any development proposals with parties of interest, including the Fire Service and for rural developments the design and provision of onsite water supply including for firefighting purposes.

- 6.26 The New Zealand Fire Service Firefighting Code of Practice SNZ PAS 4509:2008 in turn offers a range of alternative methods to achieve compliance with the NZFS Code in non-reticulated areas and invites consultation with NZFS Commission staff.
- 6.27 On the basis of the above analysis, changes to the current provisions as per the submission are not considered necessary, therefore the proposed provisions should remain as they are.

6.28 RECOMMENDATION – TOPIC 2 – SUPPORTS THE INTENTION TO PROVIDE FOR MARAE AS A PERMITTED ACTIVITY

HOWEVER,

REQUESTS AN AMENDMENT TO THE STANDARDS AND ASSESSMENT CRITERIA FOR THE PROVISION OF WATER SUPPLY FOR FIREFIGHTING PURPOSES

That the submission of Fire and Emergency New Zealand (FENZ) be rejected in so far as the specific standards and assessment criteria remain unaltered.

6.29 REASONS

To insert the specific additional standards and assessment criteria for marae would result in extra regulation and mean that marae are singled out in the District Plan for different treatment on this issue.

It is considered that the issue of water supply for firefighting services is adequately identified in the District Plan. This issue is identified in Part D Subdivision and Land Development (30.1) specifically the Policies SLDP8 and SLDP9; Outcome SLDO10; the Methods Section; and in the General Standard on Water Supply (30.1.7B) referring to alternative solutions. There are subsequently specific references in the Engineering Code of Practice. This includes a clause on the need to consult with the New Zealand Fire Service on development proposals and the need to provide adequate on site water supply, in rural locations, for firefighting services.

On the basis of this analysis, changes to the current provisions as per the submission are not considered necessary, therefore the proposed provisions should remain as they are.

Sub #	Submitter Name	Submission Type	Parts of the plan change submitted on	Summary of submission points	Summary relief sought
S1	Heritage New Zealand Pouhere Taonga	Support	Total plan change	*General support for plan change 3 as it provides for Maori communities to develop their own resources and land with fewer administrative hurdles.	* HNZPT supports proposed Plan Change 3
S2	Te Taiwhenua o Heretaunga Trust	Support	Total plan change	*Proposed Plan Change 3 will provide a more permissive approach for marae in rural areas by identifying them as a permitted activity in the Rural Zone and the Plains Production Zone *To recognize marae rangatiratanga status as set out in article 2 of the Treaty of Waitangi	* Te Taiwhenua o Heretaunga supports proposed Plan Change
FS 1	Chair of Marae Trustees Pukehou Marae	Support	Total plan change	*This is a 'no brainer' that it is now being addressed and great to see.	* Pukehou Marae supports proposed Plan change 3

Item 2

Attachment A

S3	Fire and Emergency New Zealand (FENZ)	Support with amendment	*Supports overall Plan Change <u>However</u> *Amend 5.2.6 Specific Performance Standards and 5.2.8 Assessment Criteria	*Supports the intention to provide for marae as a permitted activity <u>However</u> *Concern that the permitted activity standards for marae do not adequately address sufficient firefighting water supply under NZ Fire Service Firefighting Code of Practice SNZ PAS 4509 2008	* FENZ is supportive of PC3 <u>However</u> * Requests an addition to the standards and assessment criteria for the provision of water supply for firefighting purposes
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