Laurie Petherick

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To Kapiti Coast District Council Planning Hearing, 2 June 2026

Submission on Proposed Plan Change 3 (PC3) to the Operative Kapiti Coast District Plan, Karewarewa Urupa, Waahi Tapu – Wahanga Tahi – Wahanga Rua.

Submitter: Laurence Bruce Petherick (Laurie).
Address for service: rlpetherick@xtra.co.nz.

Note: this submission is also made on behalf of the following Waikanae residents, all of whom wish their addresses to be withheld from being publicly available.

Gary Collis: Refmore81@gmail.com. Ph 905 2596

Steve Hollett, stevehollett@outlook.com. Ph 04 902 3694

Elspeth Preddey, Elspeth.preddey@extra.co.nz. Ph 274723369

Clive Cameron, Cameronclive687@gmail.com Ph 022 638 0880

Michael Peryer, michaelperyer@gmail.com. Ph 021 750 603

Craig Hardie, hardiecl@gmail.com. Ph 0274 506 468

Vic Hewson, vicandmaryann@gmail.com. Ph 0274 416 123

Brain Kouvelis, Brian.Kouvalis@outlook.com. Ph 021 744 720

Che Ray, 11 ryc@paraparaumucollege.school.nz

(Note, Mr.Ray was an objector in his own right for the PC3 hearing, but asked that I represent him for this hearing)

1.Preliminary

No Party named in this submission will gain an advantage in trade competition through this submission.

PC3 proposes to rezone an area of Residential Land in Waikanae Beach as a Wahanga Rua and Wahanga Tahi site in Schedule 9 of the District Plan.
Note: as the area of land referred to was not legally zoned **"Urupa",** either prior to or following its purchase and development as a residential subdivision from the late 1960's, I shall refer to it as the **"20-acre-block"** of residentially zoned land.

2. Brief background of my involvement:

I am a retired Professional Civil Engineer and Urban Public Valuer. I am appearing at this Planning Hearing as a local resident/ratepayer, having no fiduciary association with any property within the **"20 acre block"**, or any family relationship with any current owner. The end resolution of this Hearing will have absolutely no effect on our own personal property.

I am also not appearing as an "expert submitter".

My family has owned property at Waikanae Beach since the mid 1940's and I have owned our property at 20 Major Durie Place since 1995, building our house in 1999 and retiring to it in 2003. Our current location, approximately 200 metres from the subject **"20-acre block"** means that I have witnessed all the development that has taken place in regard to development of the block, and the building of the 39 homes on the Wahanga Rua portion.

I have previously made submissions to the Plan Change 2 (PC2) and PC3 Hearings regarding the **"20-acre block"** rezoning and request that the 3 Panel Members acquaint themselves with my most recent objection submissions dated 1 November 2025 and 14 March 2026.

I must also record my concern regarding the Planning Processes used by KCDC in the notification procedure for the proposed rezoning, wherein only those owners in the Wahanga Rua developed area of the subdivision were advised in writing of the proposed change in a very large, complex document. The only public announcement of this current hearing was in a very small newspaper advertisement just before last Xmas, at a time when very few people either purchase or have access to newspapers. As one would expect, there has been a total lack of public or ratepayer interest or response. I was only made aware of the original proposed rezoning by my daughter's mother-in-law who occupied 7 Marewa Place at the time of the PC2 notification, but sold since, and the owner of 5 Marewa Place who has since sold and has died.

I have also been informed that the legal advisers to the subdivision developer Waikanae Land Company Ltd (now in receivership), whom I shall refer to as WLC, terminated their long-term engagement as legal advisers to WLC, earlier this year.

I also advise that I have personally received no payment from any party for my ongoing involvement with my objections and submissions for both the PC2 & PC3 Hearings.

<u>3. Brief History of the Ownership, Zoning, and Development of the "20-Acre-Block":</u>

3.1. About 1970, a well-known property developer resident in Palmerston North was approached by an individual who resided near the Waikanae area, who in turn had been approached by Māori owners wishing to sell their 95-acre block of coastal land and estuary area on the northern side of the Waikanae River. The individual who was approached by the Māori owners was clearly interested in the proposal but considered that it was beyond his personal means and that he would need some assistance from somebody more experienced in land development. He accordingly approached the Palmerston North developer who was also keen to participate in the purchase, and as a result (WLC) was formed for this purpose.

3.2 There was no apparent opposition encountered with regard to this purchase by WLC other than from the local Weggery family (who via their accountants, were active property developers in the area, and had over the years acquired and subdivided land in various successive stages from the then Waikanae Village, by extending Tutere Street towards the river for provision of new stages of residential sections). The prior practice of the Weggery family was to establish and retain registered ownership of a link strip (street-wide) between the adjoining Māori land and the last stage developed and sold by them in the extension of Tutere Street, as their respective stages progressed toward the Waikanae River. This strategy had no doubt served the Weggery family well and provided an advantage to them in progressively buying out successive areas of the adjoining Māori land.

3.3. However, about 1970 it transpired that the Māori owners of the remaining 95 acres preferred to sell their land independently as a single block, and to deal with WLC for this purpose. Accordingly, to overcome the access blockage created by the existing link strip at the time, WLC successfully initiated a legal process to obtain and secure legal right of way and passage through that last link strip (in effect procuring the equivalent of legal road frontage for itself on purchase of the 95 acre block), thereby clearing the way for purchase from the Māori owners. (This was duly formalised through the Māori Land Court).

3.4. Following that purchase, WLC proceeded to acquire an adjoining inland area of 20 acres referred to as the "**20 acre block"** from a different group of Māori owners (who were listed as approximately 70 owners in the Māori Land Court records). This block had only just been listed as a **"Māori Cemetery"** for the first time by the local authority in the 1968 Waikanae District Scheme. Accordingly, WLC engaged in extensive enquiries as to the prior use of the land and received advice from the Māori Land Court that its records **did not** disclose any prior use of that land as a cemetery. However, those investigations established that in or around 1896 the Māori owners of an area then upward of 260 acres north of the Waikanae River applied to the Māori Land Court (or the Native Land Court as it was then known) for an order that the Court set aside an area of 10 acres for use as a cemetery, and an order was duly made to that effect. But the location was not identified as to which part of the 260 acres would be selected for that purpose, however the Court did expressly specify that the 10 acre area to be set aside as a cemetery by the Māori owners would be "inalienable" once it was identified and set aside for that purpose.

3.5. As matters transpired however, no action was taken to survey off the proposed 10 acre area to be set aside as a cemetery pursuant to the 1896 order. (Apparently the

Māori owners were indebted to the surveyors for prior survey work, and the surveyors would not proceed until that indebtedness was cleared). Accordingly, the whole matter remained dormant until 1919 when a further application was made to the Court to set aside an area for use as a cemetery. However, this time the request was made to set aside an area of 20 acres (not 10 acres), and the request was duly granted by the Court (but on this occasion without the Court making any stipulation for the actual use of the 20 acres as a cemetery, **and without reference to the area or any part of it being "inalienable"**). With regards to comments from the Waitangi Tribunal, the following is noteworthy:

3.5.1 In the relatively recent pre-publication decision the Tribunal, in relation to its consideration of the **"20 acre block"** as the "Kārewarewa Urupā", the Tribunal erroneously relied on the 1896 order as an order for setting aside a "20-acre area" as a Māori Cemetery (whereas the 1896 Court proceedings instead referred solely to a 10 acre area!).

3.5.2. Moreover, in the 1896 proceedings, the word "urupā" was not used, and all references were to a **"cemetery",** and this was an aspect drawn to the attention of the Tribunal by one of the archaeologists who appeared before it (but was discounted as insignificant by the Tribunal itself); and in addition

3.5.3. In respect of a meeting of assembled owners which was well attended, it is noteworthy that the Waitangi Tribunal appeared to conclude erroneously and without justification that the attendance at the meeting was unsatisfactory, anything but well attended, and implicitly no more than six in number. (This was based on the observation made by the Tribunal in its Pre-publication decision that the legal quorum for all meetings of assembled owners was legally fixed at the time as a minimum of six owners, concerning which the Tribunal was heavily critical).

3.6. Following the purchase of the **"20 acre block"** in about 1970, WLC made application to the local authority (then being the Horowhenua County Council) for the **"Māori Cemetery"** listing of the land under the 1968 Waikanae District scheme to be removed, and this matter went to a full public hearing at which there was no representation of the local iwi and only one formal objection was received (being that by a Mrs Kauri, with the support of two friends). Mrs Kauri addressed the local authority Committee stating that "*If this piece of ground is known as Karewarewa then our Ancestors are interred there as well as many other Māori Personages*". However, she then further stated that *"In coming before you today, I am aware that I stand alone in this matter – and that sentiment for past will not stop progress towards the future; – that you are obliged to consider what appears to you to being in the public interest and in the interest of town planning. My objection still stands but if it is disallowed the very least I would ask is this: that you arrange for WLC or for the Council, to see that any human remains that are uncovered in the course of excavation or development of Ngarara West A 14 B1, be interred in a common grave on an adjacent piece of reserve land and for a plaque to be erected and inscribed with these words: – "Christianity began with the Te Atiawa and all other tribes at Kenakena, Waikanae, in 1839."*

3.7. Following the full hearing and the personal involvement of Mrs Kauri, the local authority adjudicated as follows**:**

*"Objection No. 3/1 by Mrs Te Aputa Wairau Kauri to the designation **"Māori Cemetery"** on the Ngarara West A14B1 Block at Waikanae, being deleted, Underlying Residential*

Zoning to remain.
I have to advise that the hearing of objections to Change No. 3 has now been completed and the decision of the Council relating to the above objection is as follows: THAT Objection 3/1 be DISALLOWED, the Council being of the opinion that the designation ***"Māori Cemetery"*** *shall be lifted, the land having been sold by the Māori Owners to a Development Company, and there being no certain evidence that it is an historical Māori Burial Ground, or that internment's have taken place since it was set apart for a future Māori Cemetery in 1919:*
but nevertheless, as there is a possibility that human remains may be uncovered as development of the land proceeds, the Waikanae County Town Committee's attention be drawn to this possibility, so that in recommending the approval of any scheme of subdivision of the land, the Committee may recommend as a condition of such approval that the Company shall arrange for the re-interment of any such remains on a site to be determined by the Waikanae County Town Committee, and if the Committee sees fit, the erections on that side by the Company of a commemorative Plaque with a suitable inscription thereon. **"**

3.8. Following that decision there was **no opposition from iwi** to the continuing full development of all of the land owned by WLC (notwithstanding that it was always known that two headstones were on the property when it was bought by WLC, but these headstones were of European style with European names (William Browne, drowned 1852 aged 40 years and Margaret Maria Durie who died 1 March 1848 aged three years, she being the daughter of the local magistrate in the area). These burials were clearly unrelated to the 1839 Battle of Kuititanga which is the historic background associated by iwi with the "Karawerewa Urupā". WLC carried out extensive underground development works including the formation of the Waimanu Lagoon (using a suction dredge for the process), and installation of underground servicing pipelines throughout virtually all of its residentially zoned land remaining in the "**20-acre block"** without disturbing any human remains, which would have been indicative of a burial area associated with the 1839 Battle of Kuititanga.

3.9. Accordingly, over the years WLC formed the wider Waimanu Lagoon area, subdivided and sold in the locality some 240 sections (including the 39 sections developed and sold in the "**20-acre block"** area which is now again subject to KCDC's Plan Change 3). However, the first problem emerged in July 2000 when the second stage of subdivision was being undertaken, and in accordance with standard practice the contractors' pressure tested the newly installed underground pipelines and services to ensure there were no leaks. However, a leak was disclosed at a particular point in the more northern location of the remaining land, and a front-end digger was used alongside where the leak was located in order to inspect the pipeline. As a result, human remains were thereby located. The exact area of that location was surveyed as a requirement of HNZPT to ensure that there would be no future disturbance of that precise location. The remains found were sent to the Otago School of Medical Sciences for inspection and were found to represent nine individuals comprising three adults (one male and two of uncertain gender), four children (with estimated ages ranging between three and fifteen years), and one infant with an estimated age of between six and twelve months, the report indicating that the infants and children generally appeared to have been sickly with illnesses which included nutritional deficiencies. Again, there is no indication of a battleground burial area from the 1839 Battle of Kuititanga which is currently being asserted by other parties).

3.10. After the discovery of those remains in the most northern portion of the

subdivision, WLC voluntarily stopped further physical work on the site in order to arrange for an extended survey of virtually all of its remaining land on the northern side of Barrett Drive by independent Professional Companies providing Ground Penetrating Radar (GPR) inspections (involving more than one such service provider). Separate inspections of that nature were completed throughout the extended area, and while these surveys indicated some isolated "anomalies" (being mere possibilities which would require an archaeological dig to identify), these anomalies were rare, and virtually all within the confined area where the actual remains were located.

3.11. The first major interruption by the KCDC was the result of the Council's Plan Change 2 (PC2) initiated by KCDC on 1 April 2022. WLC objected to PC2 on the basis that it was made under the mandatory intensification legislation introduced by the government for the purpose of allowing and encouraging greater density for residential housing than permitted under the RMA and most local authority requirements. The basis of WCL's objection was that it was a government mandated regime, which excluded any right of appeal, and therefore was an inappropriate and invalid ultra vires process for PC2.The ultra vires objection was upheld by the Environment Court which resulted in termination of PC2. As a result, and within a matter of weeks, the Council initiated PC3 by public notice of 18 September 2024, and as a result, and like PC2, the wahi tapu listing under PC3 was expressed to have "immediate effect" which again froze all further development action in respect of virtually all of the remaining WLC land (apart from the small portion outside of the main **"20 acre block"** accessed from the southern side of Barrett Drive). That, in essence, is what has stopped construction work from continuing. It is the WLC view that **PC3 (like PC2, but for different reasons) is legally void and should suffer the same outcome.**

3.12. I specifically refer the Panel to the WLC submission to the PC3 hearing prepared by Maurice Rowe dated 1 November 2024, in which the request was made **"that PC3 be withdrawn in its entirety"** and the very valid reasons for this request.

3.13. Resource consents have been provided by KCDC to WLC for all parts of the residentially zoned land owned by WLC, including the balance of the land which it currently owns, but these may well now have lapsed through time limitations. (Such time restrictions would normally be worked through by negotiation between the subdivider and Council). What has changed is that KCDC is now using the Tribunal's Pre-publication decision to block further development in every way it can (in my view in breach of the Treaty of Waitangi Act 1975). Ironically, decisions of the Waitangi Tribunal are legally **not binding** on the Crown and at most have the status of recommendations only. Therefore, adoption and use of those decisions by local authorities for their own purposes should likewise be **of no legal effect.**

3.14. In regard to the triangular area of the remaining land (approximately 7500 sq.m.) in the northwestern corner of the "**20-acre block"**. That land is not currently owned by WLC but is reserve area which was originally vested in the Council as part of the reserve contributions made by WLC for **all** of its intended subdivisional stages. Ironically, those reserve fund contributions were well in excess of WLC's legal requirements at the time, and the arrangement with the council was that the excess could for a period of 10 years be carried over by WLC to other land in the Waikanae district which WLC may subsequently acquire. The irony is that this 10 year period has long since expired (and as a result the Council benefited unexpectedly from WLC in this way).

4.0.Current Legal Ownership Rights:

As mentioned in item 3.5, the original establishment of the 20 acre block as “Maori Cemetery” prior to 1970 was never formerly established as “inalienable” and therefore the owners at the time had every right to sell the land and for the “Maori Cemetery” zoning to be removed.

The purchase of the block by WLC was on an open market negotiated basis and the zoning removal was subsequently subject to a full Public Hearing!
For over 50 years since, the total land area has been residentially zoned, with all 39 developed properties in the Wahanga Rua area being privately owned with indefeasible titles, as well as the partly completed Wahanga Tahi subdivision with 37 sections

The Wahanga Tahi area to the north of Barrett Drive, although now an overgrown wilderness, has been subject to full survey and planning approval, and major earthworks and all underground services installed for 37 sections. There is also a small area of land on the south side of Barrett Drive which has a 5 section subdivision proposed and which is considered to be outside the former “Maori Cemetery” area.

Without carrying out a detailed valuation of the partly developed Wahanga Tahi area, it is reasonable to suggest that the current market value would be in the $10-$15 million range as a Residentially zoned partly developed block. Under Urupa zoning the land has no value, even though a KCDC Planner has advised verbally that there will still be an underlying residential zoning’ For what use I’m not too sure.

In regard to the ongoing potential for the Wahanga Tahi area to be residentially developed in the future, I refer the Panel to the attached Appendix wherein, the KCDC Planner Alan Brunton advised me by email on 2 April 20024 that development was possible, with this opinion being reversed a few hours later, stating **”it seems new buildings are non-complying in the Wahanga Tahi area, Rule SASM R18, so they are not permitted.”**

5.0. Summary & Conclusion:

Sadly, there has never been any attempt by KCDC or Maori interests to meet with WLC and/or their Legal Counsel to endeavor to negotiate a resolution regarding the subdivision.

The result of KCDC interfering with the rezoning will have a permanent long term negative and detrimental effect on all of the 37 developed properties, because of future development restrictions and the negative effect on market value. The future of a small block of land to the south of Barrett Drive is also under question, the area being suitable for 5 residential sections but unfortunately being included in the rezoned Urupa!

The negative effect on the undeveloped Wahanga Tahi area will be draconian and I ask who is going to compensate the WLC for their substantial losses?

Who is going to be responsible for the ongoing maintenance of the unkempt Wahanga Tahi area and who will bear the cost?

I am totally bewildered as to why KCDC want to establish a Urupa after over 50 years of private ownership, an action which is believed by most people to be totally illegal!

I firmly recommend that the proposed rezoning of the full land area to Urupa be terminated forthwith and that the 7500sq.m. of reserve land at the northern end of the block, formally the WLC Reserve Contribution land, be rezoned Urupa and given to Maori interests for future use or for reburial of any further remains, if discovered within the Wahanga Tahi area of the subject block.

Laurie Petherick.
27 May 2026

Appendix

rl etherick@xtra.co.nz

From:	Alan Brunton <Alan.Brunton@kapiticoast.govt.nz>
Sent:	Tuesday, 2 April 2024 12:27 pm
To:	rlpetherick@xtra.co.nz
Subject:	RE: Re Plan Change 2 Kapiti Coast District Plan 2021 - Waahi Tapu - Wahanga Tahi

Hi Laurie.

I just had another read at the bottom of the rules, The non complying "red" section. Often I forget to do this. It seems new buildings are non-complying in the "Wahanga Tahi" area. Rule SASM R18. So they are not permitted.

Regards,

Alan Brunton
Planning Technical Support Officer

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District Council Tel
04 2961 778
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From: Alan Brunton sent:
Tuesday, April 2, 2024 11:58
AM To:
rlpetherick@xtra.co.nz
Subject: RE: Re Plan Change 2 Kapiti Coast District Plan 2021 - Waahi Tapu - Wahanga Tahi

Hi Laurie.

This site does get a special mention in the Plan 2 district plan in a new overlay (feature). See the first and second attachments. It is part of the area "Wahanga Tahi". The third attachment are the new policies/rules for "Sites and areas of Significance to Maori" (SASM, including Waahi Tapu) and Wahanga Tahi is mentioned in the rules SASM R2. This is for land disturbance and earthworks under special circumstances only. The new SASM DP rules focus on earthworks (restricted), avoiding basements (not permitted) and swimming pools (not permitted).

Although these rules don't make obvious limitations to new residential buildings, as all new residential buildings (and additions) require earthworks (any drilling for site suitability tests, for foundation or for piles), they will need resource consent to undertake these earthworks.

Note — your property at [redacted] falls outside this area (SAMS) so is governed by rules GRZ R33 only. If you need any info on how these rules were established, I can pass your query on to the policy team.
Regards,

Alan Brunton
Planning Technical Support Officer

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