

**Before the Hearings Panel
At Porirua City Council**

Under Schedule 1 of the Resource Management Act 1991

In the matter of the Proposed Porirua District Plan

Between **Various**

Submitters

And **Porirua City Council**

Respondent

Council reply - Torrey McDonnell – Rural Zones (GRUZ, RLZ and SETZ)

Date: 28 July 2022

INTRODUCTION:

- 1 My full name is Torrey James McDonnell. I am employed as a Principal Policy Planner for Porirua City Council.
- 2 I have read the evidence and tabled statements provided by submitters relevant to the:
 - Section 42A Report - Rural Zones;
 - Addendum to Section 42A Report - Rural Zones; and
 - Statement of Supplementary Planning Evidence - Torrey McDonnell - Hearing Stream 5.
- 3 I have prepared this Council reply on behalf of the Porirua City Council (Council) in respect of matters raised through Hearing Stream 5.
- 4 Specifically, this statement of evidence relates to the matters in the above listed reports.
- 5 I am authorised to provide this evidence on behalf of the Council.

QUALIFICATIONS, EXPERIENCE AND CODE OF CONDUCT

- 6 Appendix H of the Section 42A Report – Rural Zones sets out my qualifications and experience.
- 7 I confirm that I am continuing to abide by the Code of Conduct for Expert Witnesses set out in the Environment Court's Practice Note 2014.

SCOPE OF REPLY

- 8 This reply follows Hearing Stream 5 held between 16 May and 6 July 2022.
- 9 Minute 44 from the Panel dated 8 July 2022 allows for Council to submit a written right of reply for rural chapters by 1pm on 28 July 2022.

10 This reply addressed specific questions put to me by the Panel through Minute 44.

11 If I have not addressed a matter in this reply that was raised by a submitter throughout the hearings process, I have no further reply to add to what I have set out in the Section 42A Report or evidence given at the Hearing.

12 Appendix 1 of this reply contains a list of materials provided by submitters including expert evidence, legal submissions, submitter statements etc. This information is all available on the PDP (Proposed District Plan) hearings web portal at <https://pdportal.porirua.govt.nz>.

13 Appendix 2 contains recommended amendments to PDP provisions, with updated recommendations differentiated from those made in Appendix A of the Section 42A Report.

14 For ease of reference, I have shown any changes proposed through this right of reply as follows:

s42A Report	deletions / <u>insertions</u>
Right of Reply version	deletions / <u>insertions</u>

15 Other appendices are used for analysis of specific matters addressed in the body of this report.

Questions from the Panel through Minute 44

16 The Panel has asked me to address several matters in relation to this Zone through Minute 44 dated 8 July 2022 which are addressed in turn below.

Question from the Panel:

a) Please confirm the width of the road reserve on rural roads assessed as too narrow to permit RL intensification i.e. Belmont, Murphys, Muri, Upper Moonshine, Mulhern;

17 Mr Whittaker's response is attached at Appendix 6.

Question from the Panel:

b) Can Mr Whittaker please comment on whether the capacity of Paekākāriki Hill Road is sufficient to accommodate the proposed Milmac rezoning if it is restricted to 17-18 units;

18 Mr Whittaker's response is attached at Appendix 6. It is Mr Whittaker's opinion is that he could support rezoning based on "effectively 'capping' the number of lots within the Milmac site" at 17 to 18 new lots. However, in my view with a total site size of 162ha, there is already a theoretical yield of 32 lots under existing zoning which provides for subdivision to lots of 5ha as a discretionary activity. Therefore, my position has not changed on this matter from that which is outlined in Section 3.3 of the Section 42A Report for this topic.

Question from the Panel:

c) Please provide a map showing the contours on the Milmac land;

19 Please see Appendix 3 for this map.

Question from the Panel:

d) Whether quarry policies need clarity as to what level of off-site adverse effects is acceptable e.g. physical damage from blasting, and whether the policies should make specific reference to an appropriate buffer being maintained between quarrying operations and rural residences, even if the size of that buffer is left for future consent decisions;

20 I remain of the view that setting a specific setback distance for quarries is inappropriate for the reasons outlined in section 3.8 of my s42A Report:

New quarries are a restricted discretionary activity under GRUZ-R19. Under the matters in GRUZ-P5 which form matters of discretion for GRUZ-R19, there is scope to require a range of mitigations to address the effects of a quarrying activity. These mitigations may include

requiring setbacks for various aspects of quarrying activities from existing residential units. Further, these setbacks may need to be larger than 500m depending on the scale and location of the activity be addressed.

(Paragraph 129)

- 21 However, I consider that GRUZ-P5 should make it clear that a buffer or setback is a potential mitigation that should be considered as part of any resource consent, where the appropriate size of the buffer should be determined as part of this consent.
- 22 I recommend that GRUZ-P5 be amended as outlined in Appendix 2 of this reply. I consider that the submission point from the Judgeford Environmental Protection Society Incorporated [246.3] provides scope for this change¹: *Ensure that the revised District Plan contains objectives, policies, and methods to control the effects of quarrying.*
- 23 I have also carefully reviewed the matters raised by submitters on this topic through the hearings, including the late material submitted by the Judgeford Environmental Protection Society after the Hearing Stream 5 adjourned in May (with leave of the Panel) from Professor Catherine Iorns and the Wellington Community Justice Project.
- 24 In regard to this material from the Society, my recommendations with regard to the activity status of quarrying activity in the General Rural Zone has not changed from that outlined in the Section 32 Report for this topic², or in section 3.8 of my s42A Report. I consider that a restricted discretionary activity status “provides for” quarrying activities. This is important because:
- The National Planning Standards have clearly defined that the purpose of a rural zone is to provide for primary

¹ The recommendation for submission point 246.3 remains an “accept in part”, therefore there is no consequential change to Appendix B of my s42A Report

² Refer sections 5.2.1, 5.3 and 11 of the Section 32 Report Part 2 - Rural Zones

production activities, and this lists quarrying and mining as a primary production activity;

- Quarrying activities provide employment, as well as the raw materials needed for urban development and infrastructure; and
- Porirua’s mineral resources are located in the Open Space Zone and the rural zones. Quarrying activities are best located in the General Rural Zone as there is more potential ability to mitigate nuisance type effects with larger buffer distances from sensitive activities due to site size and layout.

Further, I consider specifically providing for quarrying activities in the PDP gives effect to Objective 31 and is consistent with Policy 56 of the Regional Policy Statement for the Wellington Region.

25 My view has not changed on the appropriateness of Rural Lifestyle Zoning for Murphys Road. I consider the rezoning sought by the submitter and in their statement authored by Professor Iorn would be inappropriate for the reasons outlined in section 3.3 of the s42A Report for this topic, as well as for the transport expert evidence outlined by Mr Whittaker³.

Question from the Panel:

e) Clarify whether the reference in GRUZ-R16 to the specified number of staff relates to the number present throughout the working day or, alternatively, who rotate on and off site;

26 The intention of the recommended new rule GRUZ-R16 (Rural Contractor Depot) is the latter. I consider that a plain reading of this recommended rule is that the total number of staff associated with the depot is five, whether they come and go during the day or not.

³ Refer Council Statement of Evidence of James Whittaker - Rural Road Capacity (14 April 2022)

- 27 Read the other way, the number of staff coming to and from the site every day would be limitless. I consider that this would be inappropriate as a permitted activity standard, and have potentially significant adverse effects, including rural character, amenity, and traffic effects. As outlined by Mr Whittaker, there is very little capacity on rural roads in Porirua.
- 28 Further, the submission from Rural Contractor NZ sought a permitted activity rule for “small-scale” rural contractor depots (page 4 of this submission).

Question from the Panel:

f) As regards the submission summarised at paragraph 43 of the s42A Report, state a clear view as to whether the relief sought is valid;

- 29 I consider relief sought by the five submissions in paragraph 43 should be treated as valid and assessed as such.
- 30 I refer the Panel to the reasons outlined in Council’s Right of Reply to Hearing Stream 1 in paragraphs 18 to 31⁴, which includes relevant sections of the RMA and recent case law supporting this position.
- 31 However, I remain unclear which “further other amendments” are being sought by these submitters. In section 3.2 of my s42A report, I suggested that the Panel seek clarification from submitters. I note that Milmac Homes Limited was the only submitter who presented to the Panel.
- 32 My recommendation remains that these submission points should be rejected as outlined in section 3.2 of my s42A Report.

Question from the Panel:

g) What evidence is there of the scale of potential odour effects on the yellow and red hatched areas shown on the plan at page 3 of Appendix C (of the s42A report) adjacent to the wastewater treatment plant, and does that justify retention of the entire area as Rural;

⁴ Council Right of Reply - Torrey McDonnell - Hearing Stream 1

33 Section 3.3 of my s42A Report refers to the planner's report for the recent five lot subdivision on the site with the following commentary in paragraph 74:

The Planner's Report for this subdivision contains a lengthy analysis of the reverse sensitivity issue in regard to odour. It notes that while there have been no complaints, the odour is detectable on the Farm. The assessment considers that the intensity of odours crossing the WWTP site boundary is low to very low under most conditions but not all.

34 Having reviewed the documents sought by the Panel in relation to the application for discharge consents for the Wastewater Treatment Plant (WWTP), my view has been confirmed that the scale of potential odour effects likely covers the entire yellow hatched area in Appendix C of the s42A Report.

35 The [Statement of evidence of Peter Warwick Stacey for Wellington Water Limited Air discharge effects \(odour\)](#) outlines that there is evidence of current odour effects on Pikarere Farm, and that Wellington Water is investigating potential operational improvements to address this:

4.2 (...) based on recent odour complaints, the findings from odour surveys and the prevalence of northerly winds, I consider that the current operation of the plant has the potential to create odour nuisance effects at the residential receptors located within the Pikarere Farm subdivision.

4.3 Given that this is clearly unacceptable, I have developed, in consultation with Wellington Water, a staged odour improvement process to reduce off-site

odour to levels so that they no longer cause odour nuisance.

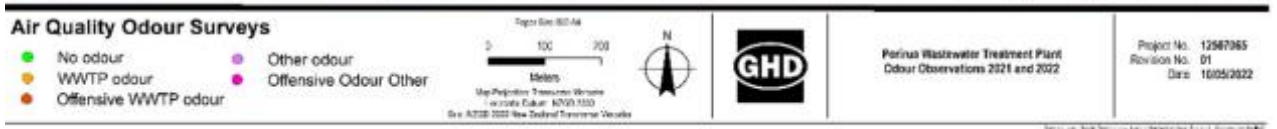
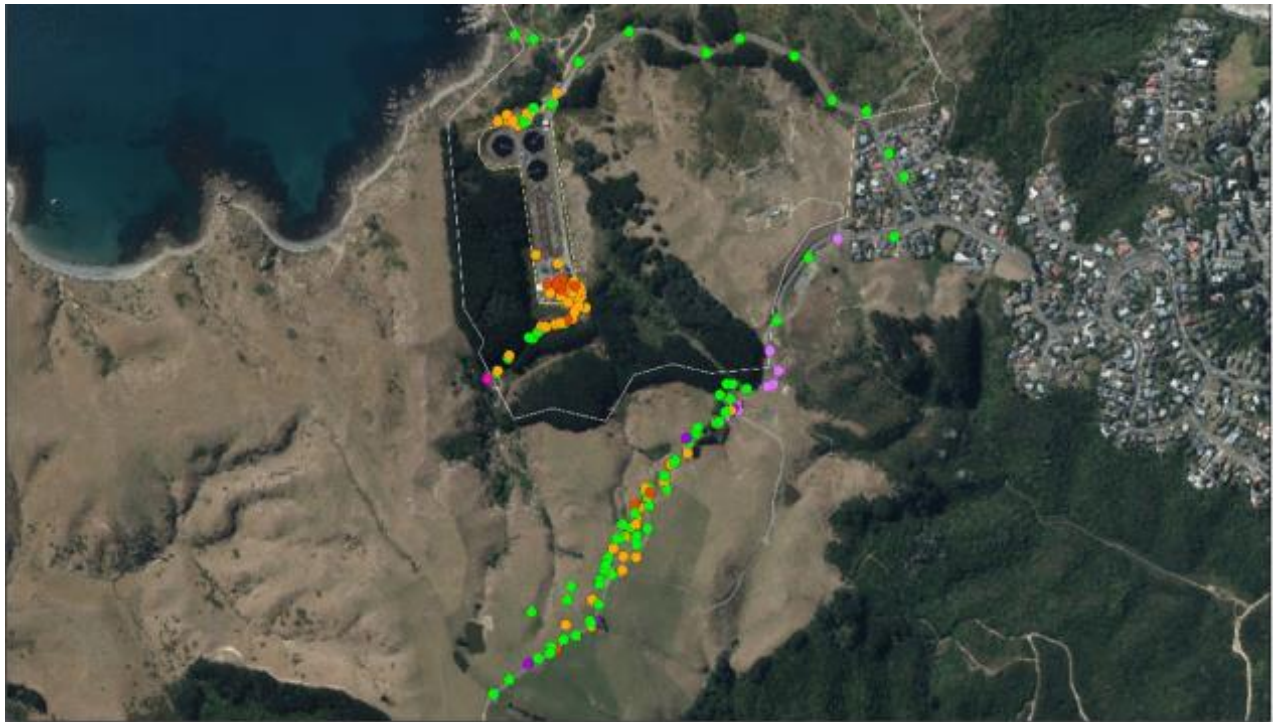
36 Further, there is some evidence of existing reverse sensitivity effects within the current five lot subdivision:

6.3 (...) immediately to the south of the WWTP property, a portion of the farm has been subdivided into five (5) lifestyle allotments. Each lifestyle allotment is approximately five (5) hectares in area and contains a building platform for dwellings and accessory buildings. Currently, one dwelling has been constructed, owned and occupied by Mr Bernon, and another is in the final stages of completion.

6.4 All the building platforms are located a minimum of 450 m from the main plant building at the WWTP.(...)

7.1 (...) I have reviewed Wellington Water's complaint records and note that while there have only been 3 recorded complaints, I am aware of at least 13 occasions where Mr Benson has advised of offensive and objectionable odour during the period January to May 2022.

37 Paragraphs 9.5 to 9.9 of Mr Stacey's evidence outline the findings of odour surveys conducted by a qualified odour scout with a "calibrated nose" to identify any odour effects present at certain points on Pikarere Farm. The odour scout recorded offensive odour approximately 700m to the south of the plant on Pikarere Farm on the days that they undertook the survey as shown in the below figure taken from Appendix F:



38 The yellow hatched area is 950m from the WWTP at its furthest extent to the south-west. The bulk of the yellow hatched area is within 700m. Therefore, I consider that it is possible that the entire yellow hatched area is currently subject to odour effects. However, this information is extrapolated from the above study, and I recognise that there may be other mitigating factors such as topography and wind direction. Regardless, therefore I consider that potential odour effects is an accurate description.

39 While operational improvements to improve odour effects are being investigated, it is possible that the odour effects may continue to increase over time with the growth Porirua is forecasted to experience and the associated volumes of wastewater that the WWTP has to process.

- 40 Increasing the number of sensitive activities, particularly residential activities, in close proximity to the WWTP could potentially impact the operation and future upgrades of the WWTP by increasing the likelihood of complaints.
- 41 The WWTP is regionally significant infrastructure, and the submitters have not addressed how this rezoning would be consistent with the objectives and policies of the Infrastructure Chapter, particularly INF-O2. I consider that the burden of evidence to demonstrate that the areas being sought for rezoning will not be subject to reverse sensitivity effects ultimately sits with the submitters. I note that no evidence was provided at the Hearing.
- 42 Overall, my recommendation remains unchanged from that outlined in my s42A Report in relation to this submission point.

Question from the Panel:

h) Please provide a larger scale map (A3 format) of the area of Pikarere Farm (and sections subdivided off it) adjacent to the PCC wastewater treatment plant, including current cadastral boundaries, land ownership, approved building platforms and dwellings (colour coded to enable identification of completed dwellings), contours, and proposed zoning;

- 43 Please see Appendix 4 for this map.

Question from the Panel:

i) Please provide a link to the Council's WWTP resource consent Application, expert evidence in relation to odour effects and the 42A report if available;

- 44 All documents relevant to hearing are available here:
<https://haveyoursay.gw.govt.nz/poriruawwtp/widgets/339300/docum>

[ents](#) . Some specific links on this page that may be of interest to the Panel include⁵:

- [Porirua WWTP - Discharge of wastewater - Resource consent application and Assessment of Environmental Effects \(AEE\)](#)
- [Porirua WWTP - Discharge of contaminants to air - Resource consent application and AEE](#)
- [S42A Report PWWTP](#)
- [Statement of evidence of Peter Warwick Stacey for Wellington Water Limited Air discharge effects \(odour\)](#)
- [Joint statement of odour experts dated 6 July 2022](#)

Question from the Panel:

j) Please provide a map showing the distance of Willowbank Quarry to the nearest residences, with the address and owner of each residence noted either on the face of the map or with a key so they can be identified.

45 Please see Appendix 5 for this map

⁵ A disclaimer that there may be other expert evidence contained within other reports, but I have not had time to review all of the considerable material available in relation to the resource consent hearing

Date: 28/07/2022



Handwritten signature in blue ink, appearing to read "M. Donald".

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Appendix 1 – List of materials provided by submitters

The following table contains all material provided by submitters through Hearing Stream 5, some of which cover topics addressed in other replies:

<p>Submitter evidence</p>	<p>Statement of Evidence - Adam Thompson (Economics Evidence) For Silverwood [172] Statement of Evidence - Adrienne Black (Corporate Evidence) for Waka Kotahi [82] Statement of Evidence - Claudia Jones (Planning Evidence) for Waka Kotahi [82] Statement of Evidence - Dean Raymond For Heritage NZ Pouhere Taonga [65] Statement of Evidence - Graeme McCarrison for Spark Trading New Zealand Ltd Statement of Evidence - Natalie Webb for Firstgas Limited [84] Statement of Evidence - Peter Coop for BRANZ [116] - Appendix - Controlled Activity Height Standards Drawing Statement of Evidence - Peter Coop for BRANZ [116] Statement of Evidence - Ray O'Callaghan for 1010 Homes Ltd [125] Supplementary Statement of Evidence - Peter Coop - BRANZ [116] - Appendix 1 Supplementary Statement of Evidence - Peter Coop - BRANZ [116]</p>
<p>Submitter statements</p>	<p>Submitter Statement - Pikarere Farm Limited [183] Submitter Statement - 1010 Homes [125] Submitter Statement - Judgeford Environmental Protection Society [246] - Supporting Materials Part 1 Submitter Statement - Judgeford Environmental Protection Society [246] - Supporting Materials Part 2 Submitter Statement - Milmac Homes [258] Submitter Statement - Robyn Smith [168] Submitter Tabled Information - Silverwood Corporation Limited [172] - Submission On Growth Strategy Submitter Tabled Information - Judgeford Environmental Protection Society [246] - Photos Of Flooding In Judgeford Submitter Tabled Information - Sandra Johnston [89] - Photos Of Flooding In Judgeford Submitter Tabled Information - Silverwood Corporation Limited [172] - Clarification from Adam Thompson Submitter Tabled Statement - Ara Poutama Aotearoa Department of Corrections [135] Submitter Tabled Statement - John Cody [185] Submitter Tabled Statement - Rural Contractors NZ [179] Submitter Tabled Statement - Transpower [60]</p>
<p>Memos from submitters to panel</p>	<p>Memo to Panel - Graeme McCarrison for Spark Trading NZ Ltd - Response to Commissioner Questions (30 May 2022) Memo to Panel - Judgeford Environmental Protection Society [246] - Response to Minute 39 (13 July 2022) Memo to Panel - Julian Dawson on Behalf Of Silverwood Corporation Limited [172] - Response To Hearings Panel Request Memo to Panel - Waka Kotahi [82] - Hearing Stream 5 Response to Hearing Panel (1 Jun 22)</p>

	<p>Memo to Panel - Waka Kotahi [82] - Request For Evidence To Be Tabled (18 May 22)</p> <p>Memorandum of Counsel - Silverwood Corporation [172] (27 April 2022)</p> <p>Memorandum of Counsel - Silverwood Corporation [172] (29 June 2022)</p> <p>Memorandum of Counsel - Silverwood Corporation [172] (30 June 2022)</p> <p>PCC Memo - HS5 Requested Adjournment For Silverwood Submission (29 June 2022)</p>
Submitter presentations	<p>Submitter Presentation - 1010 Homes Ltd [125] - Information Provided to Panel</p> <p>Submitter Presentation - Graeme McCarrison For Spark</p> <p>Submitter Presentation - Jennifer Blake [17]</p> <p>Submitter Presentation - Judgeford Environmental Protection Society [246]</p> <p>Submitter Presentation - Pikarere Farm Ltd [183] - Copy of Document Referred to In Presentation</p> <p>Submitter Presentation - Robyn Smith [168] - Additional Information Requested by Panel</p> <p>Submitter Presentation - Stephanie Blick for Silverwood Corporation Limited [172]</p> <p>Submitter Presentation - Summary Statement of Adam Thompson for Silverwood Corporation Limited [172]</p> <p>Submitter Presentation - Survey and Spatial NZ (Wellington Branch) [72]</p> <p>Submitter Presentation - Tracey Davies [10]</p>
Submitter legal submissions	<p>Submitter Legal Submissions - BRANZ [116] - Attachment</p> <p>Submitter Legal Submissions - BRANZ [116]</p> <p>Submitter Legal Submissions - Silverwood Corporation [172] (1 July 2022)</p> <p>Supplementary Submission of Counsel for BRANZ [116]</p>

Appendix 2 – Recommended amendments to PDP provisions

In order to distinguish between the recommendations made in the Section 42A Report and the recommendations that arise from this report:

- s42A recommendations are shown in red text (with underline and ~~strike out~~ as appropriate); and
- Recommendations from this report in response to evidence are shown in blue text (with underline and ~~strike-out~~ as appropriate).

GRUZ - General Rural Zone

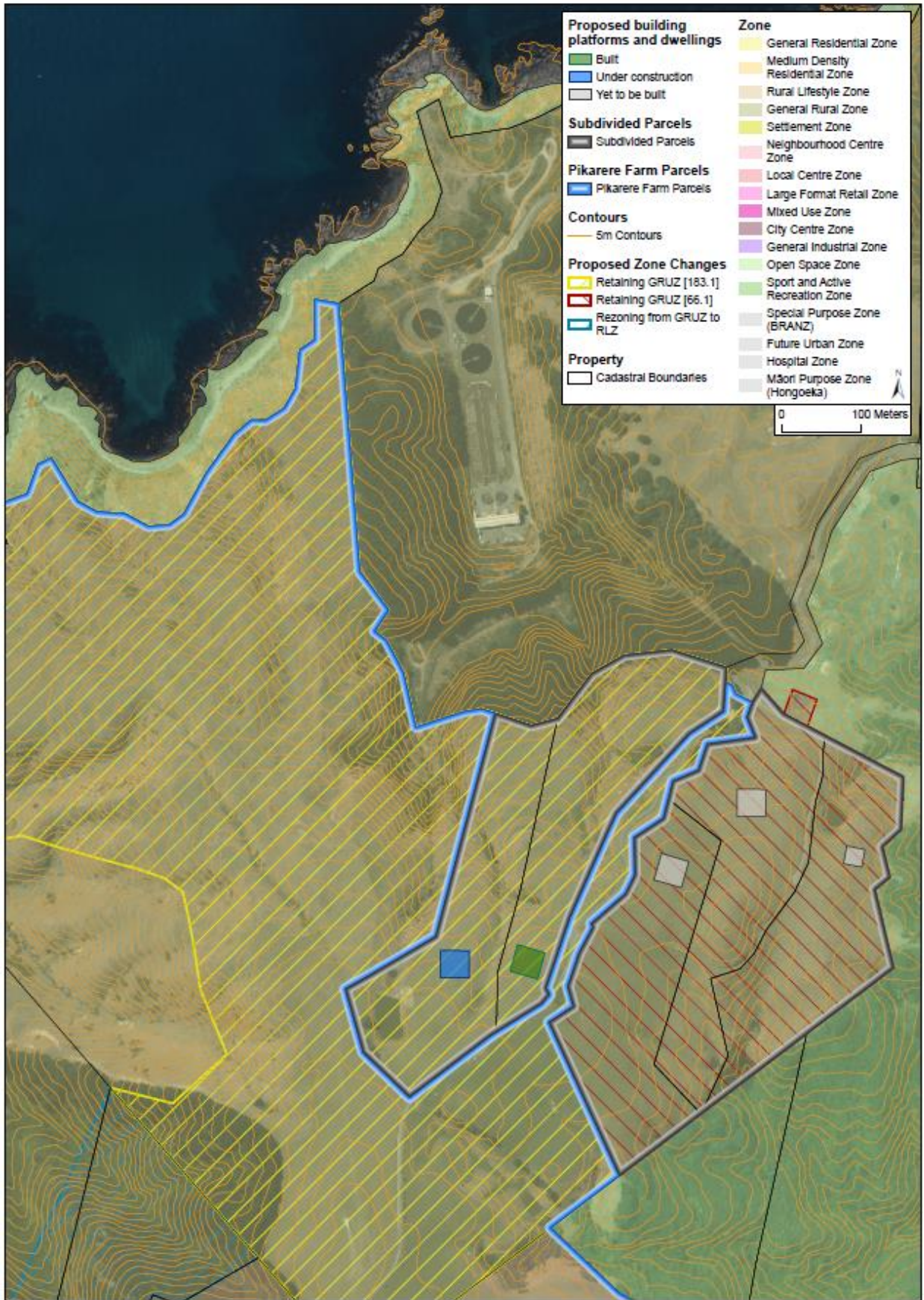
GRUZ-P5	Quarrying activities and mining
<p>Provide for new quarrying activities or mining activity in the General Rural Zone where it can be demonstrated that:</p> <ol style="list-style-type: none">1. The siting, and scale of buildings and visual screening of these activities maintains the character and amenity values of the Zone;2. There are measures to minimise any adverse noise, vibration, access and lighting effects <u>including adequate separation distances from nearby residential units</u>;3. There are measures to minimise any adverse effects on character and amenity values of the Zone from the movement of vehicles;4. Areas of indigenous vegetation are retained where practicable; <u>and</u>5. It avoids or mitigates any adverse effects on waterbodies and their margins; and⁶<u>5.</u> It internalises adverse environmental effects as far as practicable using industry best practice and management plans, including monitoring and self-reporting.	
GRU Z-P6	Site rehabilitation
<p>Require any new quarrying activities or mining activities and changes of use on existing quarry sites to demonstrate how the site will be rehabilitated, having particular regard to:</p> <ol style="list-style-type: none">1. Objectives, methodology and timescales for rehabilitation;2. The intended end use;3. The location, gradient and depth of excavation;4. The availability of clean fill material, including top soil, and consequent timeframes for rehabilitation;5. The surrounding landform and drainage pattern;6. The ability to establish complete vegetation cover;7. The outcomes of any consultation undertaken with mana whenua; and8. Any adverse effects associated with rehabilitation.	

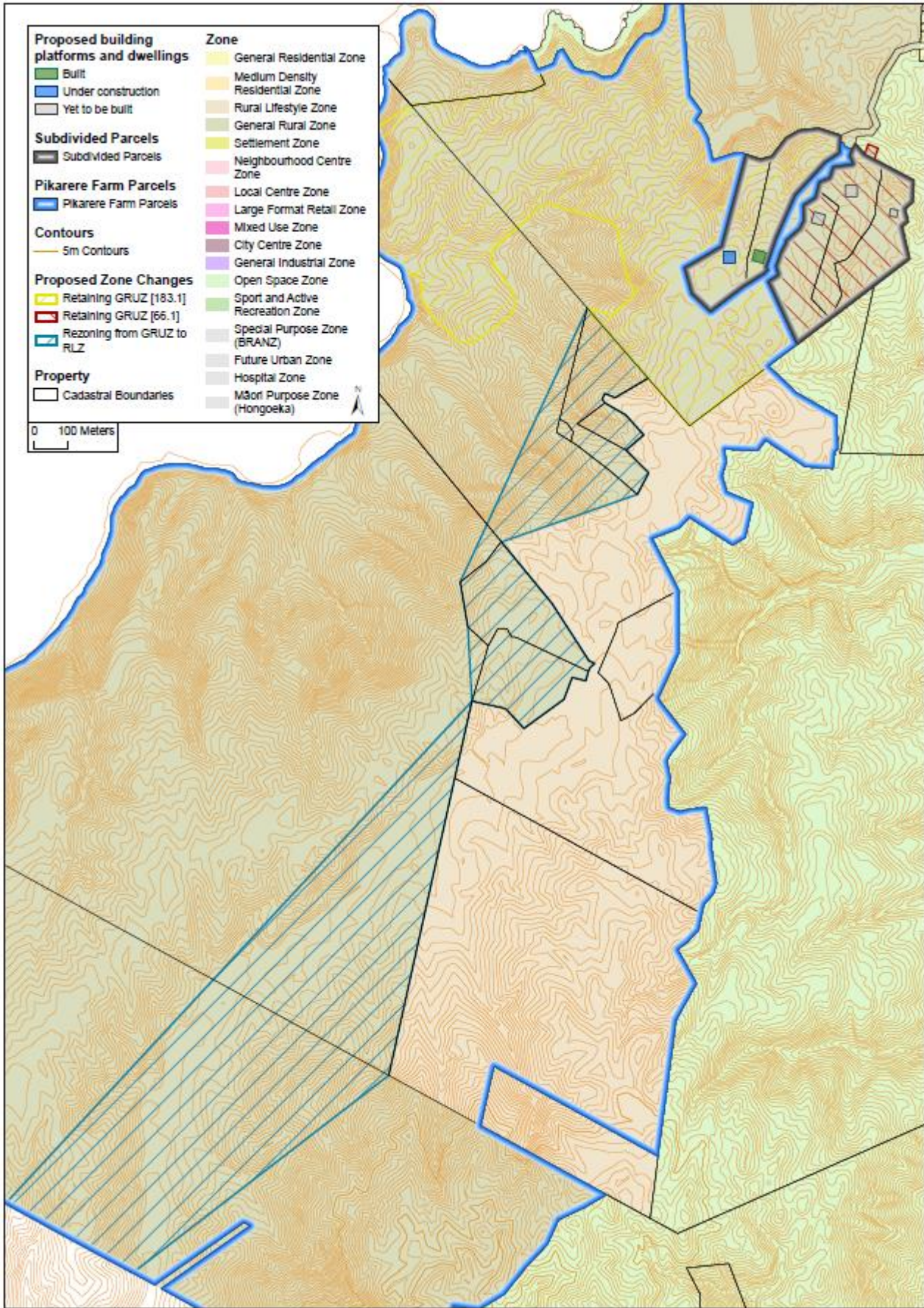
⁶ Fulton Hogan[262.28]

Appendix 3 – Map of the Milmac property with 5m contours

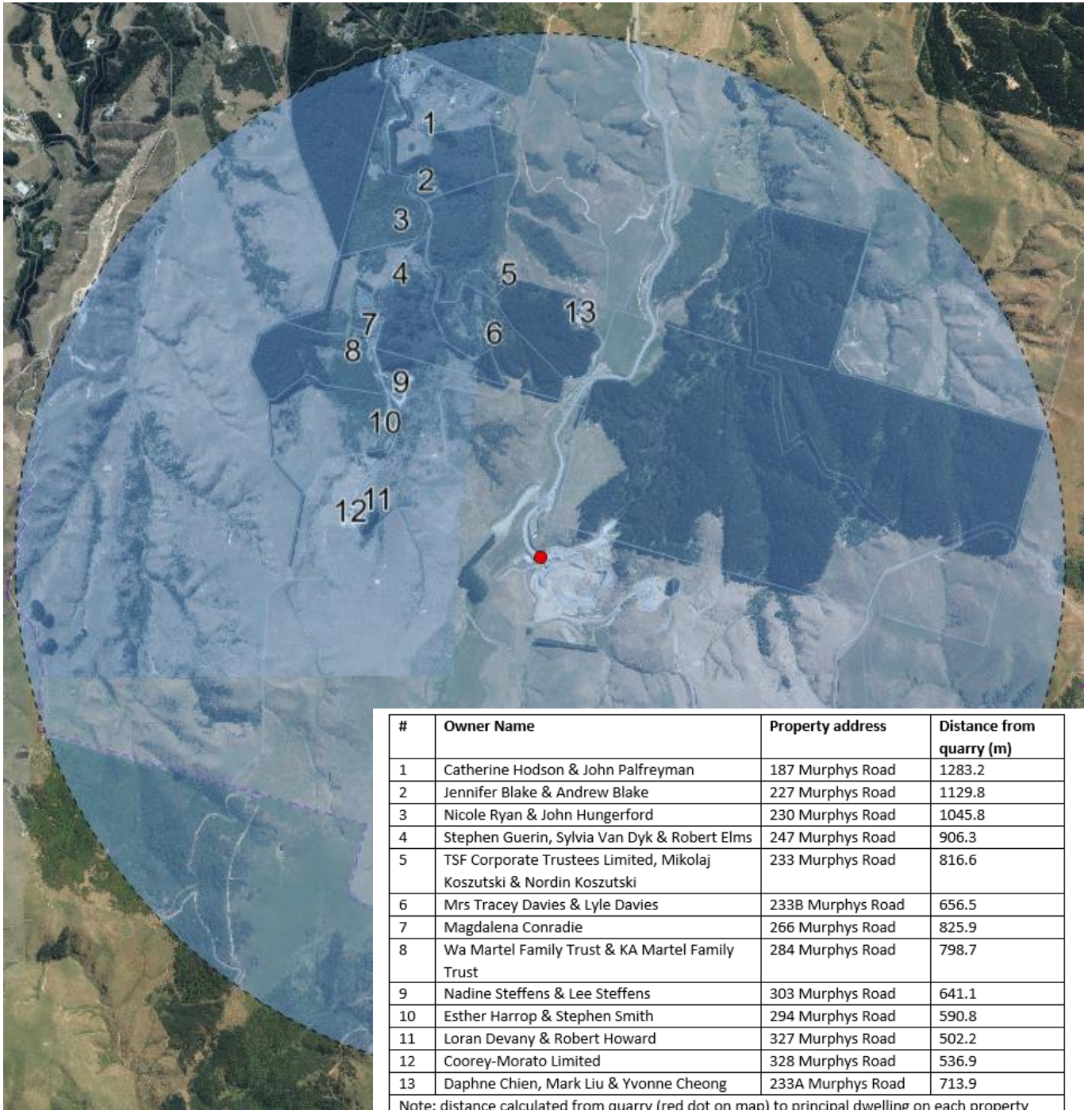


Appendix 4 – Maps of Pikarere Farm and Wastewater Treatment Plant





Appendix 5 – Map of Willowbank Quarry and surrounding residences



Appendix 6 – Jamie Whittaker’s response to questions from the Panel in Minute 44