

RMA FORM 5

Submission on publicly notified Proposed Porirua District Plan



Clause 6 of the First Schedule, Resource Management Act 1991

To: Porirua City Council

1. Submitter details:

Full Name			
Company/Organisation <i>if applicable</i>	Judgeford Environmental Protection Society Incorporated		
Contact Person <i>if different</i>	Tracey Davies		
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2. This is a **submission** on the **Proposed District Plan** for Porirua.

3. I could I could not
gain an advantage in trade competition through this submission.
(Please tick relevant box)

If **you could** gain an advantage in trade competition through this submission please complete point four below:

4. I am I am not
directly affected by an effect of the subject matter of the submission that:
(a) adversely affects the environment; and
(b) does not relate to trade competition or the effects of trade competition.
(Please tick relevant box if applicable)

Note:

If you are a person who could gain an advantage in trade competition through the submission, your right to make a submission may be limited by clause 6(4) of Part 1 of Schedule 1 of the Resource Management Act 1991.

5. I wish I do not wish
 To be heard in support of my submission
 (Please tick relevant box)

6. I will I will not
 Consider presenting a joint case with other submitters, who make a similar submission, at a hearing.
 (Please tick relevant box)

Please complete section below (insert additional boxes per provision you are submitting on):

<p>The specific provision of the proposal that my submission relates to:</p> <p>SUB-O4 FUZ-01 Purpose of the Future Urban Zone - The Judgeford Flats area of the Future Urban Zone will help meet the City’s identified medium to long-term industrial land use needs.</p> <p>CEI-O8 Future Industrial Zone - Recognise that the intended use of the Northern Growth Area and Judgeford Hills is primarily for residential purposes, while Judgeford Flats is primarily for industrial purposes.</p> <p>GRUZ -P5 Quarrying activities and mining activity</p> <p>Significant Natural Area SNA 160 – Murphy’s Road Bush</p>
<p>Do you: Support? Oppose? Amend?</p> <p>Re-zoning of General Rural Land in Judgeford Flats to “Future Urban” is opposed</p> <p>New mining activities are opposed</p> <p>Additional protections should be considered for SNAs, and residents with SNAs should be adequately supported</p>
<p>What decision are you seeking from Council? What action would you like: Retain? Amend? Add? Delete?</p> <p>The current proposal to rezone will exacerbate the current predicament of residents (detailed below) and is not supported. Rezoning should only be done if it enables activities that are in keeping with the existing use of the land and surrounding environment, such as supporting a rural lifestyle.</p> <p>Enabling new mining activities is not supported. This activity is entirely inappropriate and is not consistent with the existing use of the land and surrounding environment. Council should:</p> <ul style="list-style-type: none"> • Provide protective measures in the District Plan, preferably by prohibiting all large-scale mining and extraction activities in Judgeford • Ensure that the revised District Plan contains objectives, policies, and methods to control the effects of quarrying • Develop a mining and extraction policy that will provide transparency and accountability in Council decision making in future.

Reasons:***The Judgeford Environmental Protection Society Incorporated***

The Judgeford Environmental Protection Society Incorporated is a group of Judgeford residents that have come together with the specific purpose of protecting the existing use and environment of the Judgeford area. This includes the properties of Murphy's road Judgeford and any other affected properties, occupiers, visitors from the effects of quarrying and any activities associated with, and to represent affected properties owners in and RMA or associated proceedings.

'Future Urban' creates additional uncertainty and is unfair

The proposed 'Future Urban' holding position creates an unreasonable level of uncertainty for residents who already have increased vulnerability and sensitivity because of the prospect of temporary Willowbank Farm Quarry activity becoming a permanent activity in the area, which was never envisaged at the time residents agreed for the activity to proceed. The Society submits that this additional uncertainty is unacceptable and unfair. Rather than leave residents in limbo, Council should make a firm decision on the zoning of the area now.

The high amenity value of Judgeford area must be protected

The Judgeford area is an area of high character and amenity value for residential use as well as passive recreation. Enabling mining activities is entirely out of character with the area, which includes many properties with SNA designations. The SNA status of many of the properties indicates that the area is worthy of preservation and as such the Council has placed encumbrances on land holdings which prejudice the developability of land. This is at odds with a quarry site being located next door. With many SNA in the vicinity, the area should be considered to be of 'High Natural Character' and quarrying and mining activities should be avoided within the locality.

'Future Urban' zoning will entrench existing inappropriate activities

The Society is of the view that any changes to the current plan must not further entrench or embed existing inappropriate activities that are inconsistent with the existing residential use, and amenity value, in the area.

Rezoning rural land in the area should only occur if it can be done in a manner that does not continue or aggravate existing effects to residents associated with temporary activities already underway. Rezoning appropriate uses (such as rural lifestyle development) should be enabled, provided there are additional protections for residents.

If rural zoning is retained, the definition of primary production must be amended consistent with MBIE and other's definitions so as to exclude all broad scale mining / quarrying activities (and any other inappropriate activities) that will have an adverse effect on the amenity and enjoyment of the area.

Industrialisation and expectations of living rurally are incompatible

The rezoning proposal is particularly inappropriate as it will exacerbate and consolidate the adverse effects of the existing temporary Willowbank Farm quarry activity in an area of specific vulnerability from features such as the long narrow rural road, topography of the land and presence of SNAs.

Lack of existing infrastructure and safety risks

The consolidation of non-rural and industrial use in the Judgeford area will give rise to activities that are a departure from the expectations of living in a rural environment, such refuse transfer stations and their ancillary activities in an area of already inadequate infrastructure to manage waste water and transport (both lack of public transport links and SH58).

Critically, these incompatible activities will give rise to additional adverse effects from increased traffic volumes and will exacerbate existing safety risks.

We note this proposal undermines the Council's own objectives to allow for an integrated, efficient, and safe transport network. Further, the Society understands that NZTA object to the rezoning of Judgeford Flats area as proposed.

It would seem the only reasonable rationale for this proposed rezoning is to provide for industrial use is to support the Willowbank Farm quarry becoming a more permanent fixture, there would appear to be no other reasonable reason for providing for industrial zoning as proposed. This suggests that, despite requesting further information from Fulton Hogan, the Council has pre-determined approving their consent to extend the life of Willowbank Farm quarry for potentially 35 years (that Fulton Hogan has publicly stated it will apply for), this would be entirely inappropriate.

Other hazards in the 'Future Urban Zone' make Judgeford Flats unsuitable for industrial use

The geotechnical aspects of the area which include the Moonshine Fault Rupture Zone, hilly topography and a general geology of fractured rock and heavy clays already subject to frequent slips and washouts.

Given the natural hazards in this area from the Moonshine Fault Rupture Zone and the Flooding Hazard (the area is a flood plain, is in a stream corridor and subject to tidal flows and sudden ponding of large volumes of water), Porirua City Council and its rate payers are exposed to future risk from adverse events - even presuming any new infrastructure was built to standards suitable to withstand these hazards and sufficient future funds were sequestered for maintenance and upgrades.

The Society notes that the Future Urban Zone proposal will potentially cost hundreds of thousands of ratepayers' dollars to fund the need to drain and flood proof the land bordering SH58 area in order to allow for safe activity by commercial enterprises. This is as should be identified in APP10-Table 3 as a medium risk for flooding.

Any activity that would involve increased risks due to the area's specific geotechnical circumstances (fault rupture zone, propensity for flooding) such as hazardous facilities and activities involving the use of significant amounts of hazardous substances should be excluded.

Mining and quarrying are also inappropriate activities for areas where people are residing

The expectations of residents living in the General Rural Zone - in relation to enjoyment and amenity - are currently not being met. The rural zone policies (that refer to matters such as siting, scale and visual screening measures to minimise impact on character and amenity) are not adequate protection from inappropriate activities that are currently having an adverse effect on residents.

While the degree and nature of effects caused by quarrying varies according to the type of quarry, the scale of operation, excavation methods, the geology of the area; in this particular instance the well-established surrounding land uses are entirely incompatible with the quarry activity. Rural blocks of land and housing and mining activities are incompatible with each other. Particularly when the activity is inappropriately managed (monitored and enforced).

While a rural zone would naturally anticipate that some activities to be undertaken at odd hours, reflecting the nature of rural life, the activity of a quarry is quite beyond the character of a rural zone.

When considering changes to the District Plan, the Council must consider existing use rights of existing residents living in General Rural zone of Judgeford.

The Society notes that while the Willowbank Farm quarrying activity has been accepted by residents as a temporary activity to provide for Transmission Gully. Specifically, that residents were informed that the quarry activity was time-limited and would cease the earlier of 31 December 2020 or once Transmission Gully was completed. Rezoning or any other action that will support new mining activities in Judgeford in the longer term is not acceptable.

Preferably mining and quarrying activities should be deemed prohibited activities in Judgeford. This is necessary to protect the environment (which includes well-established residential dwellings and SNA areas) and residents' amenity and enjoyment, and to minimise negative impacts on transport networks in the area.

Traffic safety concerns arising from the activity

State highway 58 is a road that is notorious for its poor safety record. The road is a narrow traffic corridor and mining and quarrying activities are high trip generating activities. These activities will create high volumes of traffic that will have significant adverse effects on the transport network and adversely affect the amenity of nearby residents. These additional vehicles will be heavy vehicles which will cause rapid and continual degradation of the road; which will require constant works, further placing residents and road users at risk.

Council has demonstrated that it is unable to effectively oversee the management of large-scale mining operations

Without a specific quarry policy in place to guide decision making, Council has consented to an activity that is out of character with the amenity value of the area, which is causing considerable disturbance to and adverse effects on the environment and residents.

Rock aggregate is produced through frequent blasting and crushing to obtain a desirable size for transport. The effects of the quarry include both on-site and off-site environmental effects through the blasting, excavation, crushing, stockpiling and transport of aggregate (including night-time).

The environmental effects of the quarrying include:

- the disturbance of land and vegetation
- the disturbance of streams
- dust
- vibration
- noise
- traffic
- visual effects
- the discharge of contaminants into air, water and land.

As the current quarry activity has highlighted, while the effects of quarrying can be mitigated and internalised, they cannot always be avoided. Especially when so close to established dwellings. We note that the specific effects of Society members have been communicated to the Council on 28 September 2020. These effects must be considered when considering District Plan changes.

The quarry activity is a non-notified “discretionary” activity which should mean, in practice, that the activity is stringently managed and monitored by Council. This has not been the case. The reality is that the effect of the activity is not localised, and Council has not adequately protected residents from effects.

The updated District Plan should include additional protections

As discussed above, the temporary discretionary activity at Willowbank Farm serves as a case study of how the current District Plan has failed to protect the amenity value and quiet enjoyment of residents, of their own properties. In this case the District Plan together with the application of discretion by Council has resulted in:

- inadequate identification and due diligence of both affected parties and effects.
- poor consultation with few select residents.
- application of permitted noise standards that are not appropriate (the appropriate baseline should be the noise which would be expected in this locality without the quarry operation).
- substandard monitoring (heavily reliant on the operator self-monitoring).
- minimal enforcement action.

The current case highlights that additional protections must be added to the District Plan to provide both greater protection from nuisance activities and environmental harm.

GRU-P5 is inconsistent with the current operative plan

A District Plan should contain objectives, policies, and methods to control the effects of quarrying. Neither the current nor proposed plan contain the necessary protections. The lack of detail means there is no transparency in decision making.

We note GRU-P5 is inconsistent with the current operative plan in which there are the following clear statements to protect against noise:

- Objective C11.1 is to minimise the adverse effect of noise on the environment [which includes people per the definition in s 2 of the RMA].

This has the corresponding policies of

- C11.1.1: to protect the natural and physical environment from unreasonable noise in order to maintain and enhance the amenity values of the environment,
- C11.1.2: to promote health by ensuring environmental noise does not exceed a reasonable level.
- C11.2.2: states that residents in the Suburban and Rural Zones receive a high level of protection from intrusive noise and from the gradual degradation of the environment from increased background noise levels.

The proposed plan should contain these clear statements. In particular C11.2.2 about providing greater protection to rural zones is not included.

‘Activities’ should not drive a District Plan

The Plan proposes enabling new mining activities in the general rural zone. It is unclear from the consultation documentation how the Council envisages the proposed new mining activity is consistent with the objectives of the District Plan.

The consultation documentation does not provide sufficient information to enable submitters to understand the expected impacts e.g. environmental, social or financial impacts of the proposal on the community. Therefore, we do not see how people, other than those who have existing knowledge or experience of the current mining activity, could be expected to make an informed submission.

Therefore it is not possible to understand how the Council has arrived at the proposals for mining activities to be categorised as restricted discretionary and not categorised in some other way, such as prohibited.

A mining and extraction policy should be developed by Council

Most if not all Councils around New Zealand have a such a policy on mining. that helps those affected understand how the activity fits within the Plan.

The proposed approach of explicitly amending the plan to enable new mining activities in the general rural zone sees the activity drive the objectives of the Plan rather than the objectives of the plan driving the types of activities that are allowed and how they should be conducted.

Council should urgently develop and publicly consult on a mining and extraction policy to ensure that no other Porirua residents are subjected to a similar experience of mining activities being permitted so close to their established dwellings (essentially placing existing dwellings in what would be considered a buffer zones).

The Society invites the Council to work with the Society on the development of the new policy to ensure it is fit for purpose.

Rural and rural lifestyle are more appropriate zoning designations

The Judgeford area would seem to be more appropriate for further rural lifestyle development noting that Rural Lifestyle Zoning will also introduce some reproduction and reverse sensitivity aspects and allow for the intensification of the current rural zone (hobby farm and other lower density residential). Judgeford must be retained as rural and/ or rural lifestyle. Any new lifestyle holding would need to build consistent with potential flood ponding hazards.

When amending the current District Plan care should be taken to ensure that changes do not further entrench or embed existing inappropriate activities in the area. This means they must not encourage activities that will aggravate the effects of existing inappropriate activities already underway. That said, grandparenting provisions could apply to any appropriate primary production industry currently located within this area (excluding mining and quarrying). For the avoidance of doubt, a quarry and industrial hub are not appropriate activities for the area.

Significant Natural Areas are not protected adequately

While Significant Natural Areas have been defined, the Porirua City council appears to have not provided sufficient mechanisms in the draft plan to permit the protection of SNAs from nuisance values emanating from the proposed extractive industries in the rural zone. This is at odds with Council's stated aims to protect them through policies and rules in the District Plan. <https://porirucity.govt.nz/your-council/city-planning-and-reporting/district-plan/proposed-district-plan/past-consultations/ecology-and-landscapes/significant-natural-areas-faq/>

Finally, the Society asks that Council reflect on its responsibility to protect its rate payers and the environment from adverse effects and takes this opportunity to respond with District Plan changes that will ensure only appropriate activities are enabled.

Please return this form no later than **5pm on Friday 20 November 2020** to:

- Proposed District Plan, Environment and City Planning, Porirua City Council, PO Box 50-218, PORIRUA CITY or
- email dpreview@pcc.govt.nz

Signature of submitter
(or person authorised
to sign
on behalf of submitter):



Date: 19 November 2020