

# Silverstream Spur

*Saving a public amenity  
for future generations*



**SILVER STREAM  
RAILWAY**  
HERITAGE RAILWAY



# Silver Stream Railway, 10 years of being more than a group of steam engine enthusiasts!

Background is that another developer would be interested in purchasing the Spur, however, officers see problems with this because the other developer is likely to develop the Spur with much less regard for the natural environment. This is an important consideration for the Council because there is substantial community resistance to the Spur being developed. The resistance can be divided into three main categories:

1. Environmentalists, including Forest & Bird, who are anxious to preserve the land as a natural corridor for fauna. The Spur has regenerating bush and creates the narrowest part of the valley so it is seen as a natural resting place for birds.
2. Silverstream Railway, a group of steam engine enthusiasts, who are concerned about houses too close to their railway track due to the risk of fire and also noise complaints.
3. Concern by Steven Pattinson that development over the GTC land will create flooding hazards for the residents of Pinehaven. He is stirring up trouble over any proposed sale to GTC.

By selling only part of the Spur the Council will be able to retain the balance of the land as a reserve and further develop this natural environment on the Spur. The proceeds of sale will provide a fund to start this and as a result, some of the resistance to a sale will be satisfied. In addition, the area that would be sold to be developed would be far enough away from the Silverstream Railway that the Silverstream Railway Society would be unlikely to be concerned about the sale. On the other hand, Mr Pattinson of Save Our Hills is not likely to be satisfied but it is unlikely he will have as much influence once Silverstream Railway and Forest & Bird are satisfied.



- Southern Growth Area not included as an area of Future Development (Greenfield) in the Future Development Strategy finalised by the Wellington Regional Leadership Committee on 19 March 2024.
- In their submission to the Proposed Change 1 to the Natural Resources Plan, UHCC included a map showing the “Southern Growth Area” as Unplanned Greenfield Area. Part of the Spur and other land included in PC49 has retained its “Planned Urban Area” shading.

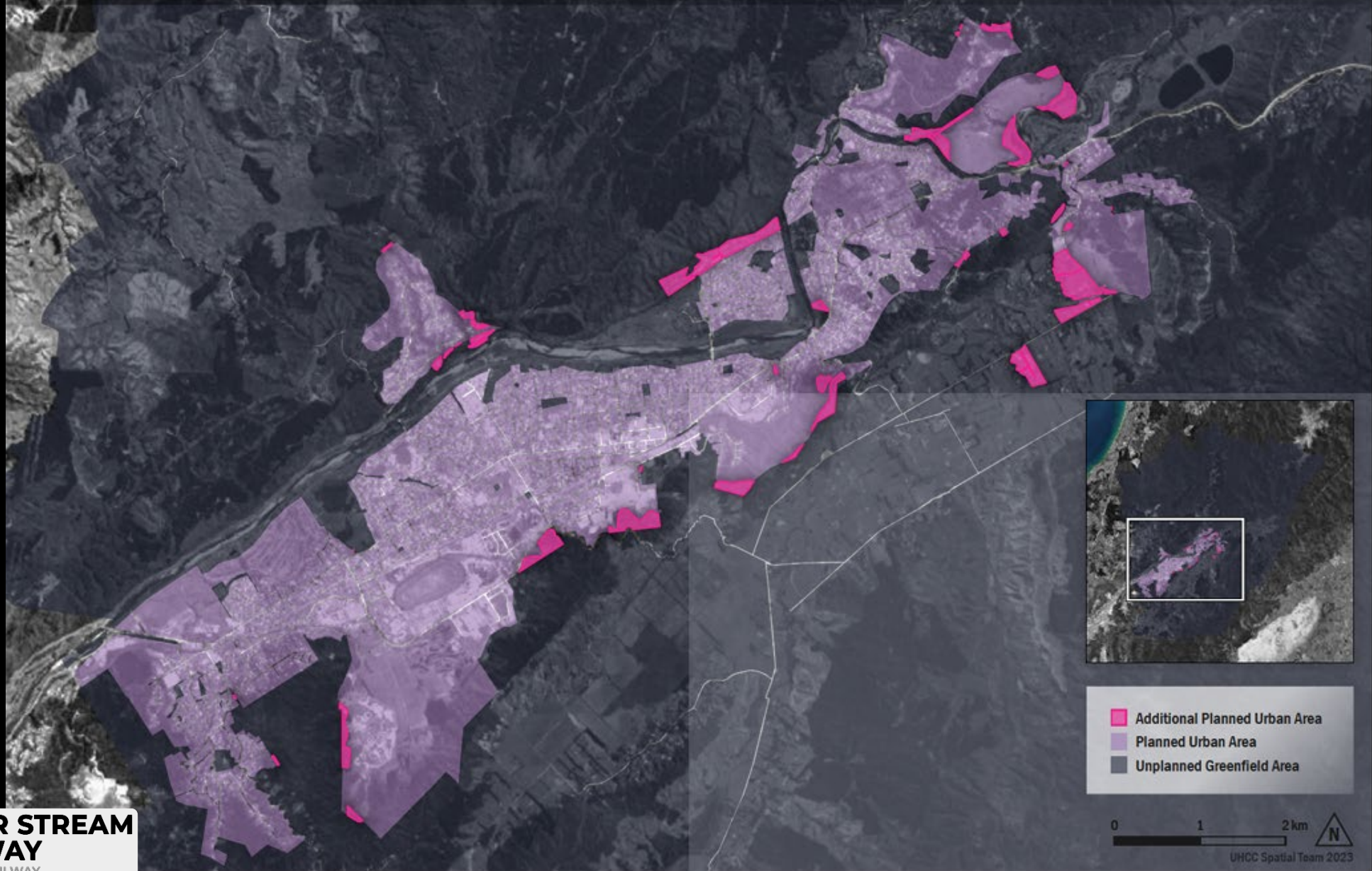
Diagram 9: Prioritised development in the metro areas (Hutt Valley, Wellington, Porirua and Kāpiti (excluding Ōtaki))





# PLANNED URBAN AREA AND UNPLANNED GREENFIELD AREA IN UPPER HUTT

Additional areas identified qualify as they were proposed in notified plan changes prior to 30 October 2023.





- Map showing road traversing the SNA from Council workshop December 2020

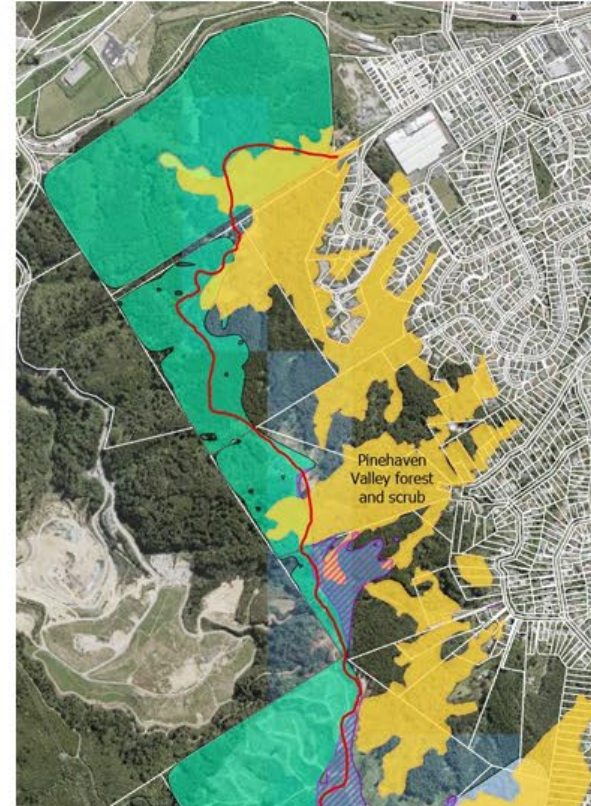




# Southern Growth Area: Planning Considerations & Strategy

*LINK TO ONLINE MAPPING:*

- *HBA feasibility*
- *Original and current SNA*
- *Draft Landscapes*
- *Intersecting Pinehaven Catchment*
- *Indicative roading layout*



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# GTC Master Plan March 2021

## 4.2

### Key Moves Summary

Underpinning our concept masterplan are the following key moves that are described below and developed further in the next stages of the masterplan:

#### 1. A Connected Community – Movement

Connect people with amenities via safe, sustainable, and accessible transport choices

#### 2. A Connected Community – Recreation

Connect people to nature and recreation opportunities to enable healthy communities

#### 3. Sustainable and Resilient Environment

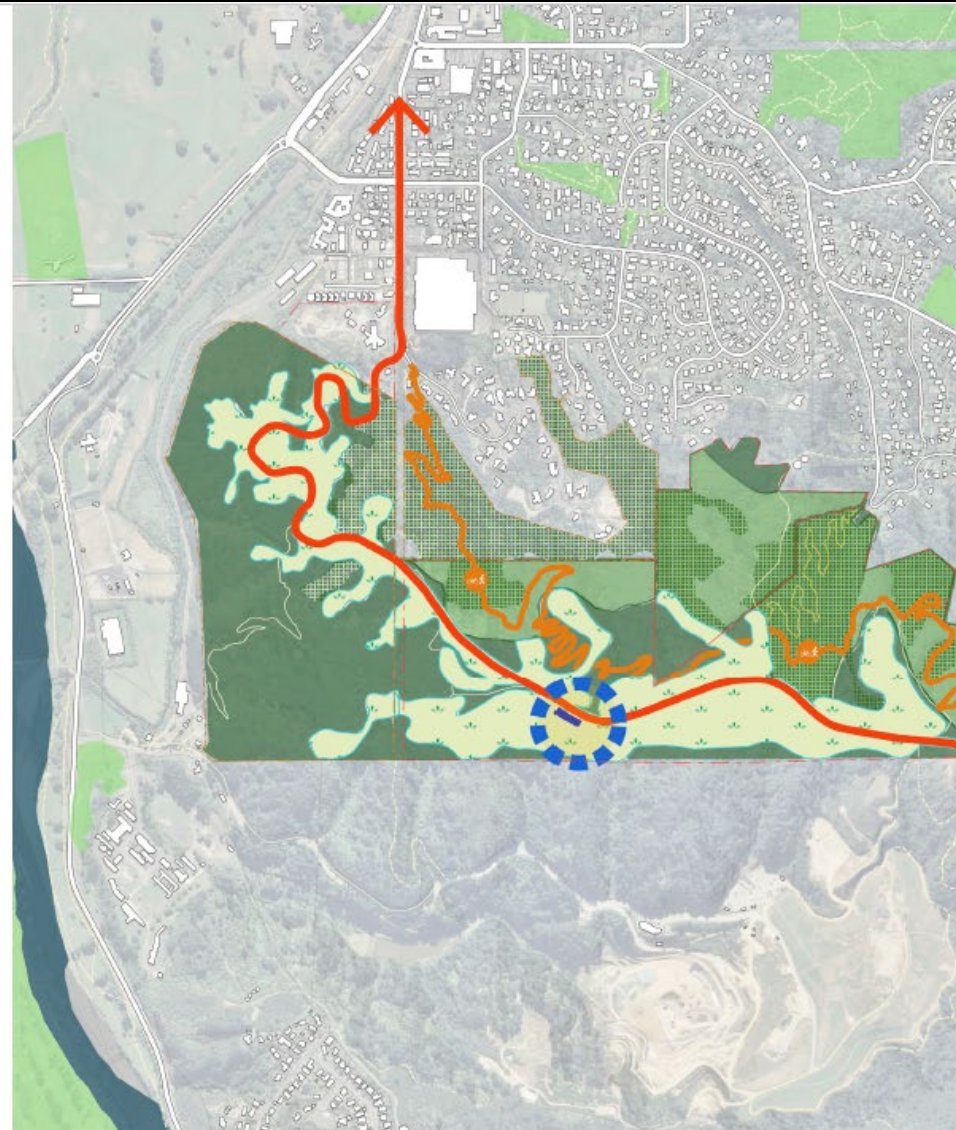
Development that is resilient to natural hazards and climate change, sustainably designed and minimises greenhouse gas emissions

#### 4. Vibrant Communities

Enable attractive community hubs that provide opportunities for learning, sharing, and growing local economies

#### 5. Forest Living

High-quality housing that is appropriate for its context and provides choice.





**From:** [Peter Kelly](#)  
**To:** [Executive Leadership Team](#); [Guy Smith](#)  
**Subject:** Update Spur Land  
**Date:** Wednesday, 7 July 2021 7:45:00 am  
**Attachments:** [image001.gif](#)

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Hi everyone,

I met with Ralph and Mark yesterday and they put another option on the table which both simplifies and complicates the matter. They are proposing that just a road is built with no development on the Spur. Development would only occur on their land at 44 Kiln St and then on the hills past our boundary. They suggest we do a joint application to the IAF for that road and other utilities. Under this proposal we do not sell the spur land and would retain ownership which is simple and appealing but comes with a hitch.

The complication is one of funding as we have not really budgeted for this per se, and who pays is the perennial challenge.

Anyway one of the many twists and turns in the ongoing issue. I am just seeking confirmation from Ralph that this is how they wish this to proceed and then would put this in front of Councillors on the 20<sup>th</sup> for consideration.

Cheers

Peter

**Peter Kelly**

Te Tumu Whakarae | Chief Executive



**Te Kaunihera o Te Awa Kairangi ki Uta | Upper Hutt City Council**

838 – 842 Fergusson Drive, Private Bag 907, Upper Hutt 5140, New Zealand

Tau Waea: +64 4 527 2110 | Waea Pūkoro: +64 27 208 8000 | Īmēra: [peter.kelly@uhcc.govt.nz](mailto:peter.kelly@uhcc.govt.nz)

Pae Tukutuku: [www.upperhuttcity.com](http://www.upperhuttcity.com) | Pukamata: [www.fb.com/UpperHuttCityCouncil](http://www.fb.com/UpperHuttCityCouncil)



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**From:** James Mckibbin  
**To:** Andrew Bierre; Peter Kelly; Geoff Swainson; [REDACTED]; [REDACTED]; Matt Griffin  
**Cc:** Chris Upton; Bruce Kiddle; Richard Hickman; Toni Neale; Karen Patterson  
**Subject:** Re: IAF EOI: GTC Kiln Street Silverstream Spur Development  
**Date:** Wednesday, 28 July 2021 4:10:18 pm  
**Attachments:** [image001\[55\].jpg](#)  
[image002.jpg](#)  
[image003.jpg](#)  
[image004.png](#)

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Hi everyone

Thanks for the update Andrew, the EOI looks well advanced and we will be able to provide an update on the gaps in the application required from GTC tomorrow. I'll also be able to supply material post-meeting to help with the application.

GTC has also commissioned Envelope Engineering to complete concept design work for a road from Kiln St via the Spur to GTC's boundary on the ridge, and water supply and wastewater infrastructure. This work will include indicative costings and will be available in time to support the EOI.

Look forward to seeing you all tomorrow and working through the application.

James

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**From:** Andrew Bierre [REDACTED]  
**Date:** Wednesday, 28 July 2021 at 1:03 PM  
**To:** Peter.Kelly@uhcc.govt.nz <Peter.Kelly@uhcc.govt.nz>, Geoff Swainson <Geoff.Swainson@uhcc.govt.nz>, [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED]

James Mckibbin [REDACTED]





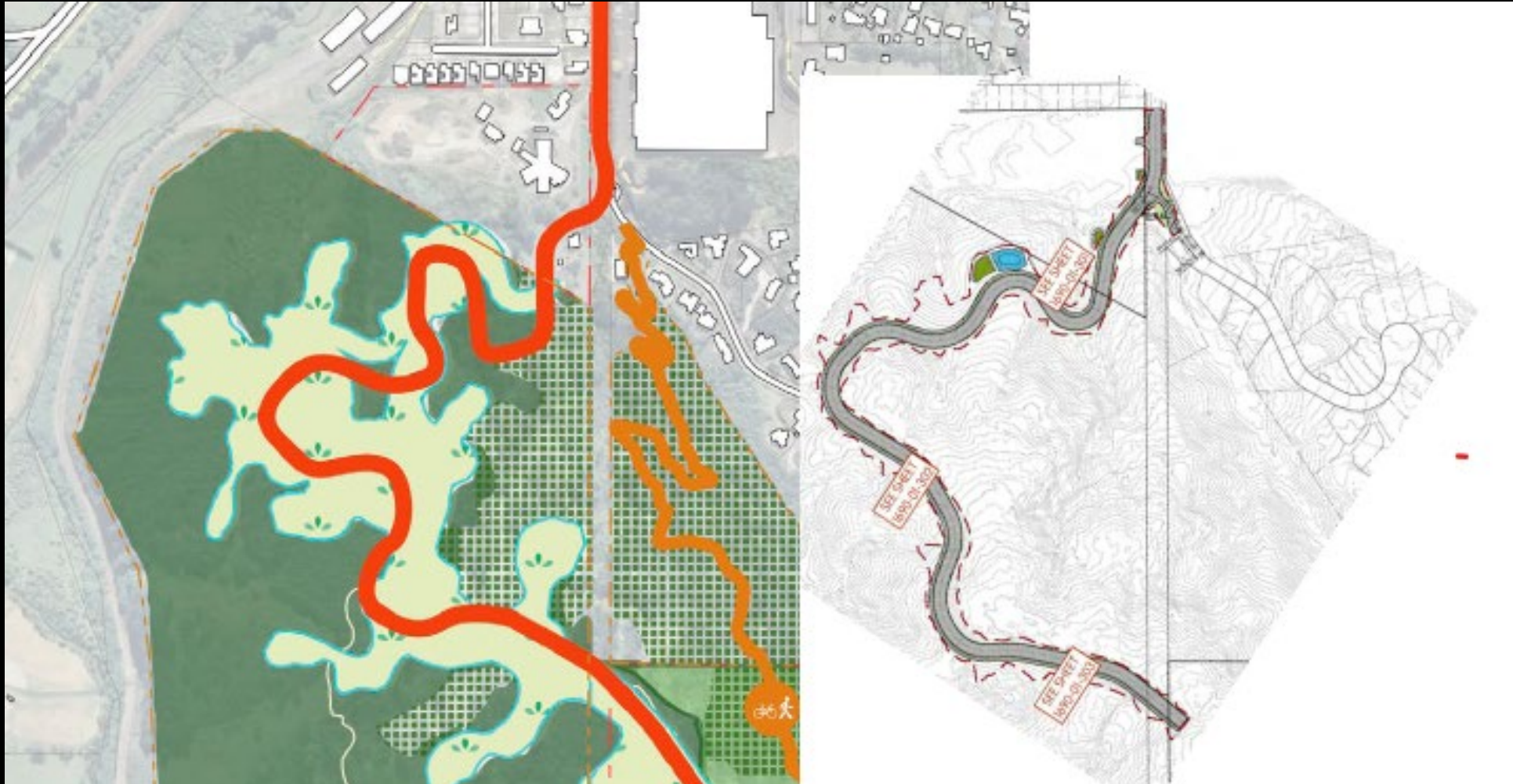
## Evidence of Phillip Read (GTC) November 2023

- 5.4 An access corridor option for accessing the SGA via the Spur was designed by Envelope for the joint application with UHCC to the Infrastructure Accelerator Funding Application in 2022 – refer **Figure 2** below. I was not involved in that design, which was done at a time that residential development of the Spur was being proposed.
- 5.5 That option consists of a 1.4km by 18m wide road corridor (12m wide road width including provision for parking), along with a footpath on one side. The maximum road gradient was 1:8. The design generally complied with UHCC's Urban Road design standards (appendix C, Figure 1) – Local Distributor Route (<150 houses). It is possible a different road corridor with smaller footprint may be considered.

# Road comparison

March 2021

Road design submitted to the IAF





# Draft Section 42a report May 2022

However, I also recommend accepting the further submission from Guildford Timbre Company. The importance of the spur as an access providing link with the southern growth area cannot be ignored, and whilst the rezoning of the spur is appropriate, the introduction of provisions to allow for the necessary infrastructure to provide access is also considered necessary.

These provisions will focus on ensuring that there is a viable pathway for the construction of a road corridor on the spur site whilst also ensuring the underlying zoning and the natural character of the site are recognised and provided for.

Due to the site-specific nature of these provisions, I propose that introducing a precinct on the spur site with an associated provisions framework is the best approach in this instance. The proposed precinct does not need to encompass the entire spur site **as there is an initial indication of where the proposed roading corridor will be located.** Therefore, the proposed precinct will encompass the area with a broader boundary to allow for any future alterations to the corridor which may deviate from the current proposed indicated corridor.

## **Recommended decision**

That the submission from Jonathan Board [S3.1] for the reasons provided above is **accepted in part**



**APPENDIX C, FIGURE 1**  
**ROAD DESIGN STANDARDS - URBAN (50 km/hr LEGAL SPEED)**

Class	Type	Area Served	Traffic Vois	Design Speed		Road Reserve Width	Rec Carriageway Width				Footpaths	Berm	Max/Min Grade	Normal Camber	Max Super	Notes	
				Flat or Rolling	Hilly		Parking	Traffic	Cycles	Total							
LOCAL ROADS	Private Way	1-3 lots 1-6 du	NA	NA	NA	3.6 (2)	-	1x2.75	-	2.75(2)	-	0.5+0.35	16% max 0.4% min	3%	NA	Not public street (2)	
	Private Way	4-6 lots 7-12 du (1)	NA	NA	NA	6.0 (2)	-	1x5.0	-	5.0(2)	-	2x0.5	16% max 0.4% min	3%	NA		
	Cul-de-sac	up to 20 du	NA	NA	NA	11.0	1x2.5	1x3.5	-	6.0	1.4	0.5+3.1	12.5% max 0.4% min	3%	6%	No stopping one side	
	Residential	21-150 du	up to 750 vpd (1)	30.0	30.0	20.0	2x2.5	2x3.0	-	11.0	2x1.4	2x3.1	12.5% max 0.4% min	3%	6%	(3)	
	Industrial street	up to 20 units	>300 vpd	30.0	30.0	15.5	1x2.5	2x3.5	-	9.5	2x3.0	-	10% max 0.4% min	3%	6%	No stopping one side	
	Ind/Comm service lane	-	NA	NA	NA	8.0	-	2x3.5	-	7.0	-	2x0.5	10% max 0.4% min	3%	NA	(4)	
	Commercial (park precinct)	-	<2000 vpd	30.0	30.0	(5)	(5)	2x3.5	-	-5.0	2x3.0	-	10% max 0.4% min	2%	NA	(5)	
LOCAL DISTRIBUTOR ROUTE	Residential	<150 du	200-1000 vpd	40.0	40.0	21.0	2x2.5	2x3.5		12.0	2x1.4	2x3.1	12.5% max 0.4% min	3%	8%	-	
	Industrial/Commercial	20-40 units	300-1000 vpd	40.0	40.0	18.0	2x2.5	2x3.5		12.0	2x3.0	-	10% max 0.4% min	3%	6%	(5)	
COLLECTOR ROUTE	Residential	150-450 du	1000-3000 vpd	50.0	40.0	21.0	2x3.0	2x3.5	7.0	13.0	2x1.4	2x3.1	10% max 0.4% min	3%	8%		
	Industrial/Commercial	>40 units	>1000 vpd	50.0	40.0	18.0	2x3.0	2x3.5	7.0	13.0	2x3.0	-	10% max 0.4% min	3%	6%	(5)	
SECONDARY (DISTRICT) ARTERIAL		>450 du	3000-7000 vpd	50.0	50.0	24.0	2x2.5	2x3.5	2x1.5	15.0	2x1.4	2x3.1	10% max 0.4% min	3%	8%		
PRIMARY (REGIONAL) ARTERIAL			7000-10000 vpd	70.0	60.0	26.0	2x2.5	3x3.5	2x2.0	2x1.5	17.0	2x1.4	2x3.1	10% max 0.4% min	3%	8%	Painted median occup. 2.0m traffic lane

**Notes:**

1. du = dwelling units, vpd = vehicles per day
2. Where a private way adjoins a Local Distributor or above, it shall have a 5 metre traffic width and 6 metre road reserve width for a minimum of 6 metres from Road Boundary.
3. Parking bays set into berm footpath zones.

4. No parking both sides but must provide for steeping of service vehicles.
5. Width dictated by parking provisions. Parking (incl. angle parking) shall be provided on both sides of street and maximised taking into account traffic considerations.
6. Where Council gives approval to delete cycle lanes each traffic lane shall be increased to 4.0 m.
7. Parking lane width allows for combined parking/cycle lane.





- Evidence from Mr Read (Nov 2023) states a 1.4km road 18mtrs long is what was designed by Envelope Engineering for the IAF (no housing on the Spur).
- Using this (road width for industrial/commercial) formula = 2.5ha. Adding a 50% buffer (Hall March 2023) for “batter design” = 3.78ha.
- Using the lesser of the correct formula from UHCC COP (150-450 du) means 1.4km with a road reserve width of 21mtrs = 2.94ha + 50% buffer = 4.41ha
- This does not consider the road gradient for public transport services being restricted to an average 10% gradient, nor any stormwater detention measures or other infrastructure planned.

#### C2.5

#### Public Transport

Where a plan to demonstrate public transport accessibility is required it shall address at least the following matters.

- i. The provision of a continuous through route classified as a Collector road or higher for public transport to use. The gradient shall not be steeper than an average of 1 in 10 with localised maximum grades not exceeding 1 in 8.

# How did the plan for the 2015 Ecological Report develop.

**From:** [Lachlan Wallach <Lachlan.Wallach@uhcc.govt.nz>](mailto:Lachlan.Wallach@uhcc.govt.nz)  
**To:** [Brett Latimer](#)  
**Subject:** RE: Silverstream Reserve - Ecological Assessment  
**Date:** Wednesday, 4 March 2015 2:43:15 pm

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Ok go with their advice but tell Beca reason not going with theirs is because our planners already have a firm working on similar topic but equally make sure that we do not get pulled in to a bigger picture. Remember we just want sufficient information to justify the sale of Silverstream Spur, I don't want another sculpture camel

Lachlan Wallach  
Director Asset Management and Operations

UPPER HUTT CITY COUNCIL  
Civic Administration Building, 838-842 Fergusson Drive  
Private Bag 907, Upper Hutt 5140

DDI: 04 527 2136 | Fax: 04 528 2652 | Mobile: 027 442 8912  
[lachlan.wallach@uhcc.govt.nz](mailto:lachlan.wallach@uhcc.govt.nz) | [www.upperhuttcity.com](http://www.upperhuttcity.com)

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Table 1: Vegetation communities within the site

## MAIN HABITATS and FEATURES

### Shrub

#### 1 Young gorse

- Approximately 1 ha (3%) of the site carries this vegetation community type.
- This is the youngest vegetation community, covering the extent of the most recent fire event on site, which began at the Silverstream Railway and travelled south-east up a small spur. Gorse (*Ulex europaeus*) is an exotic species.
- An example of this vegetation community can be seen in Appendix 1.

#### 2 Gorse/Broadleaved

- Approximately 7.3 ha (16%) of the site carries this vegetation community type.
- This vegetation community has arisen in recovery to past fire events.
- The canopy consists of ageing gorse at an average height of 1.5m, subcanopy is sparse, mainly consisting of gahnia, manuka, Spanish heath, mingimingi and *Myrsine australis*. In older stands kanuka, silver fern, five finger, mahoe, hangehange and tree daisy are present.
- An example of this vegetation community can be seen in Appendix 1.

### Seral Forest

#### 3 Mixed seral broadleaved (gully)

- Approximately 10 ha (35%) of the site carries this vegetation community type.
- Found on the mid-toe slopes, most prominently on the gentler gully sides more common found on the eastern lower slopes of the site.
- This forest represents a seral stage in the regenerating broadleaved forest from manuka scrub. With the exception of mamaku covering the gully floors, the composition of this community. The slopes contain a canopy of kamahi-manuka-broadleaved-silver fern mix, whereas the gullies consist of mamaku and mahoe. The
- An example of this vegetation community can be seen in Appendix 1.

### Exotic

#### 4 Pine plantation

- Approximately 20 ha (56%) of the site carries this vegetation community type.
- 15 years ago, a large proportion of the site, mainly on ridgelines and was planted in exotic pines (*Pinus radiata*).
- These large trees (DBH approx. 80 cm, >30m in height) form groves when canopies overlap. Little understory can be seen in these communities, mainly matipo, *Coprosma lucida*, *Psuedopanex aborea* and *Leucopogon fasticularis*
- Lone, or scattered pines occur (throughout the eastern side of the assessment area and in the central ridgeline), yet these sit well above the scrub canopy and have minor influence on community below.
- An example of this vegetation community can be seen in Appendix 1.



Figure 2: Silverstream Spur vegetation communities.



This graphic has been prepared by Boffa Miskell Limited on the specific instructions of the client. It is intended to be a planning tool and does not constitute a guarantee, warranty or representation of any kind. It is subject to the terms and conditions of the contract between the client and Boffa Miskell Limited. It is not to be used for any other purpose without the prior written consent of Boffa Miskell Limited. It is not to be used for any other purpose without the prior written consent of Boffa Miskell Limited.



- Legend
- Gorse
  - Pine
  - Tree Fern
  - Young Gorse

Silverstream Spur Reserve, Ecological Assessment.  
Assessment Site Context  
Date: 18 March 2015 | Revision: 0  
Plan Prepared for Upper Hutt City Council by Boffa Miskell Limited  
Author: Louise Roberts@boffamiskell.co.nz | Checked: JOCKYXXXX



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From: Brett Latimer [<mailto:brett.latimer@uhcc.govt.nz>]

Sent: Tuesday, 7 April 2015 1:38 p.m.

To: [REDACTED]

Subject: RE: Silverstream spur report

Thanks for the report [REDACTED], I have had a read and it appears to have covered everything. The conclusion is what we expected, so send the final through and I will arrange for payment.

From: **S7(2)(a) LGOIMA 1987**

Sent: Thursday, 2 April 2015 7:32 p.m.

To: Brett Latimer

Subject: Silverstream spur report

Hi Brett

Attached is a draft version of the Silverstream Spur report for you review. I will issue it as a final after you have had a chance to read and provide any comments.



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## 3.6 Ecology

Pinehaven Forest and the adjoining Silverstream spur have the potential to enhance the ecological connectivity across the Hutt Valley at Keith George Memorial Park and in doing so strengthening the connections between the Akatarawa Forest in the north and the significant ecological areas on the southern and eastern sides of the Hutt Valley.

Currently, the Spur is predominantly covered (71%) in exotic pine, gorse and/or broom and has little value as a corridor (Boffa Miskell Ecological Values Assessment 2015). However, there exists the opportunity to greatly enhance the ecological connection through careful management of the area, including replacement planting of the pine with native forest, lowland species and emergent species to overtake the gorse and broom.

### Key

-  Council Ownership
-  Site Boundary
-  Broadleaved Indigenous Hardwoods
-  Fernland
-  Indigenous Forest
-  Manuka and/or Kanuka



## 4.5

### Key Move 3: A Sustainable & Resilient Environment

Development that is resilient to natural hazards and climate change, sustainably designed and minimises greenhouse gas emissions

This includes providing homes with low carbon emissions (both in terms of embodied and operational energy) and designing healthy neighbourhoods with sustainable transport options and a resilience to climate change and natural hazards, such as flooding, drought and fire.

New Zealand has an international obligation to respond to the UN Sustainable Development Goals (SDG) and in particular:

- Meet the objectives of the Paris Agreement to limit global warming to 1.5-2°C above pre-industrial levels
- Report on greenhouse gas emissions under the United Nations Framework Convention on Climate Change and the Kyoto Protocol.

New Zealand is on the path to a low emission, climate resilient future. The Government has committed to being Carbon Zero by 2050 and has established the Climate Change Commission to support this journey. In their first official report the Commission recommends increased urgency and action - "we need strong and decisive action to address climate change".

#### Key

-  Broadleaved Indigenous Hardwoods
-  Exotic Forest
-  Fernland
-  Gorse and/or Broom
-  Indigenous Forest
-  Manuka and/or Kanuka
-  River
-  Landfill
-  Draft Significant Natural Areas
-  Proposed SNAs and Spur SNA
-  Key Revegetation Areas



Piwakawaka



Korimako



Pōpokatea



Kārearea



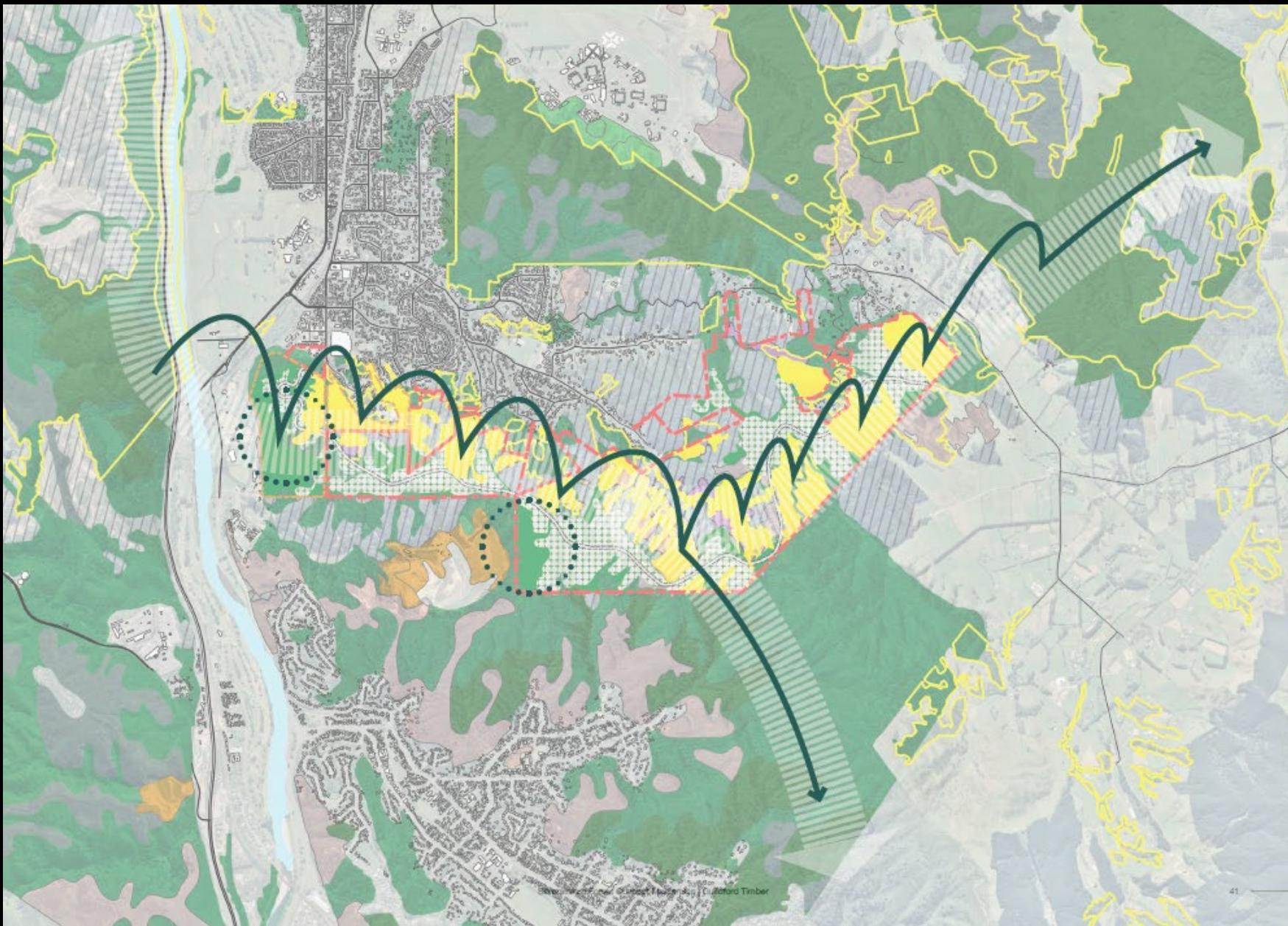
Tūi



Kererū





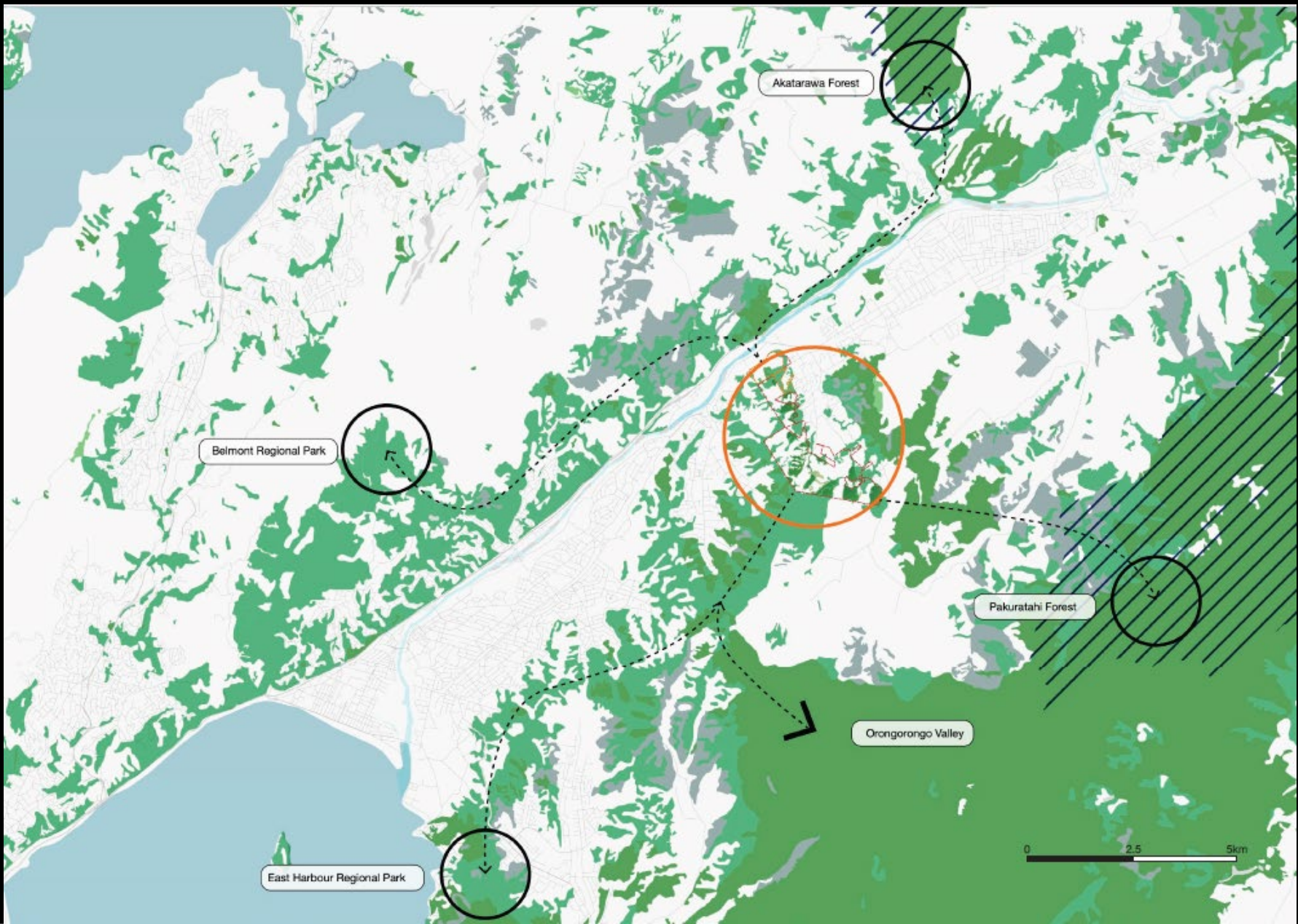


Silver Stream Railway Heritage Railway



**SILVER STREAM  
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
### 3.5 Significant Natural Area + Special Amenity Landscape

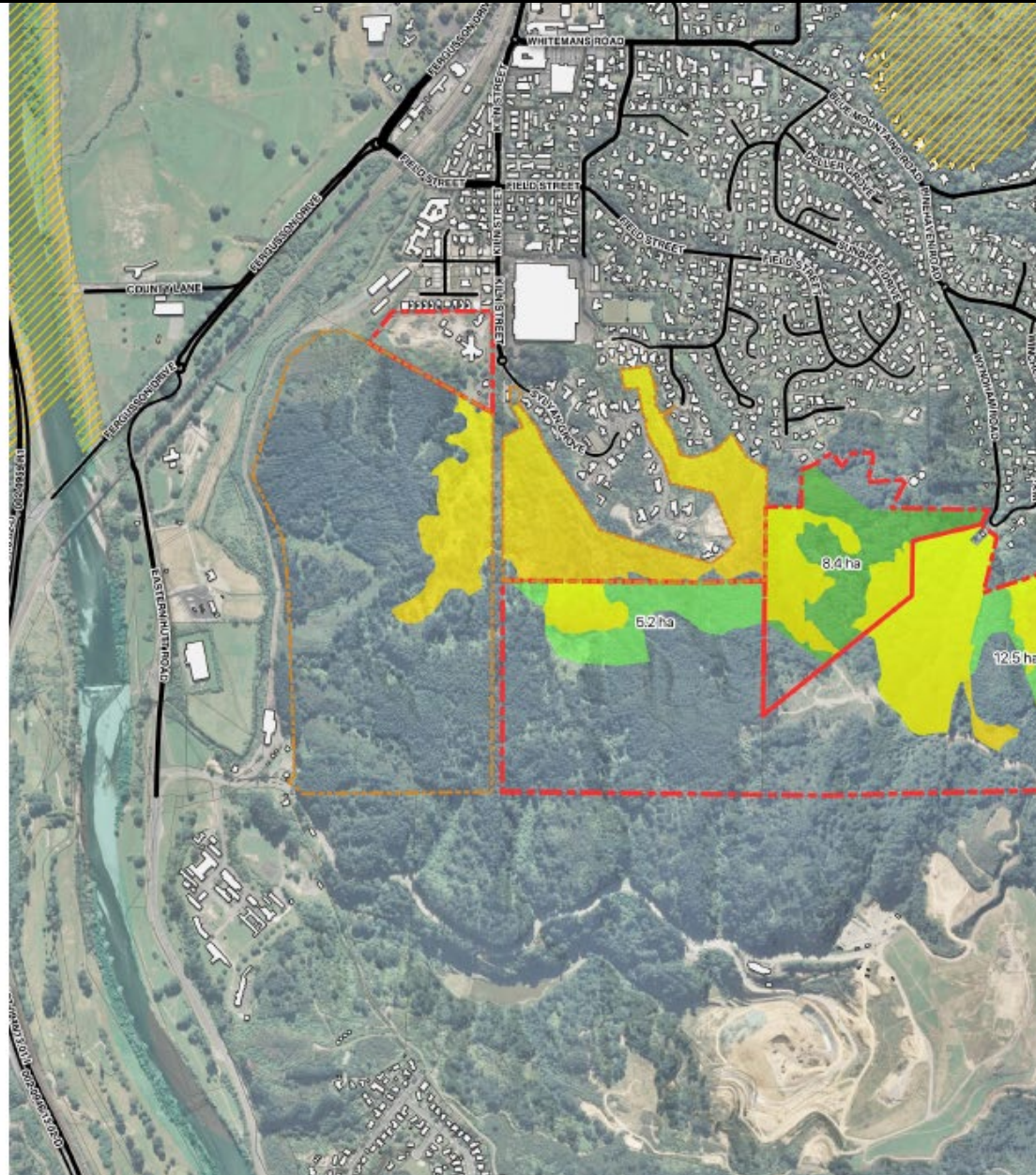
As part of PC48 UHCC identified Draft Significant Natural Areas and Special Amenity Landscape Zones for Tiaki Taio based on aerial studies.

Since then Boffa Miskell has performed an on ground analysis against these boundaries and has recommended amended boundaries.

The green backdrop that the site provides for the Pinehaven and wider Upper Hutt Character is important to retain and any housing situated in these areas will have to be sensitively sited and controlled through design measures to ensure quality development.

#### Key

-  Council Ownership
-  GTC Ownership
-  Draft Special Amenity Landscape
-  Proposed SNA's (Boffa Miskell)
-  Additional Reserve
-  Proposed Reserve



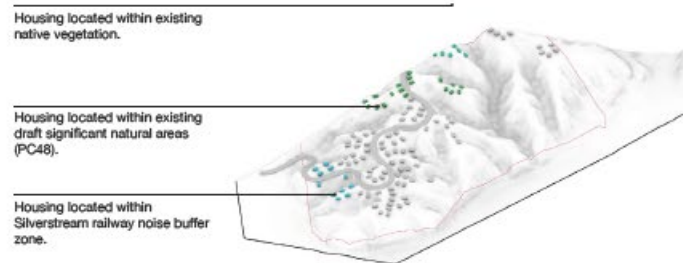
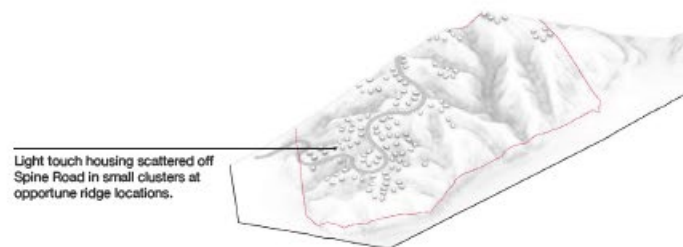
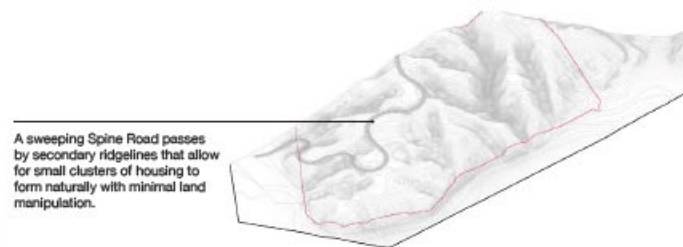
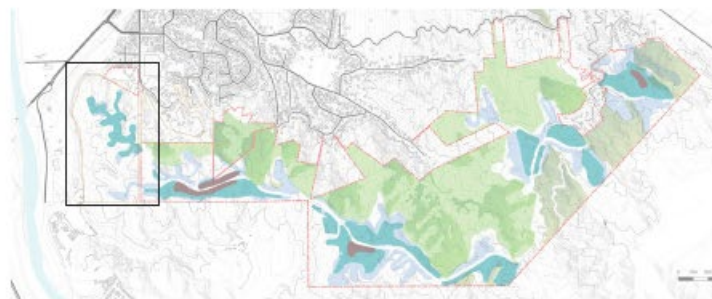
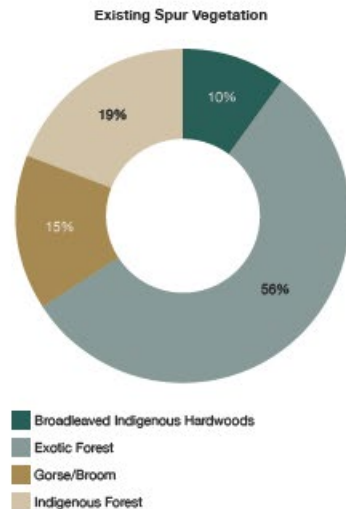
## 5.1 Focus Area 1 – The Spur

Currently exotic forest and broom/gorse covers 71% of the Spur. There is significant opportunity to add both ecological and amenity value to the Spur through sensitive development that respects the Spur's contribution to the surrounding character of the Hutt Valley.

Locating the spine road is key to how development on the Spur would be guided. A 1.1km long winding road with a separated cycle facility can be achieved with minimal landform modification and predominantly within areas that are of low ecological amenity, such as exotic pine forest.

The potential route of the spine road passes several secondary ridges that can accommodate small housing clusters sitting discretely within the landscape. Residential housing development that sits within valuable ecological areas would be low density, sensitively sited and accessed in order to minimise its impact and maximise the benefits of living amongst the forest.

A gross developable area of approximately 8.5ha of the Spur is proposed in this concept masterplan, or 24% of the Spur's total land area. The remaining 76% of the Spur being set aside as vegetation – potentially vested back to the UHCC – and replanted in native species.





# SSR Led Ecological walkouts

- Red: June 2021
- Pink: October 2022
- Blue: Feb 2024
- Yellow: March 2024
- Purple: April 2024





# “Road” SNA Area

- SNA area proposed to be deleted by GTC
- Site walkout undertaken Monday 1 April 2024.
- 1 stream located.
- Lots of regeneration occurring, Tawa, Totara, Putaputaweta, Kamahi, Beech all abundant.
- Tree ferns are mature and not “fundamentally young”.
- A continuation of the area behind Sylvan Way.







**SILVER STREAM  
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**SILVER STREAM  
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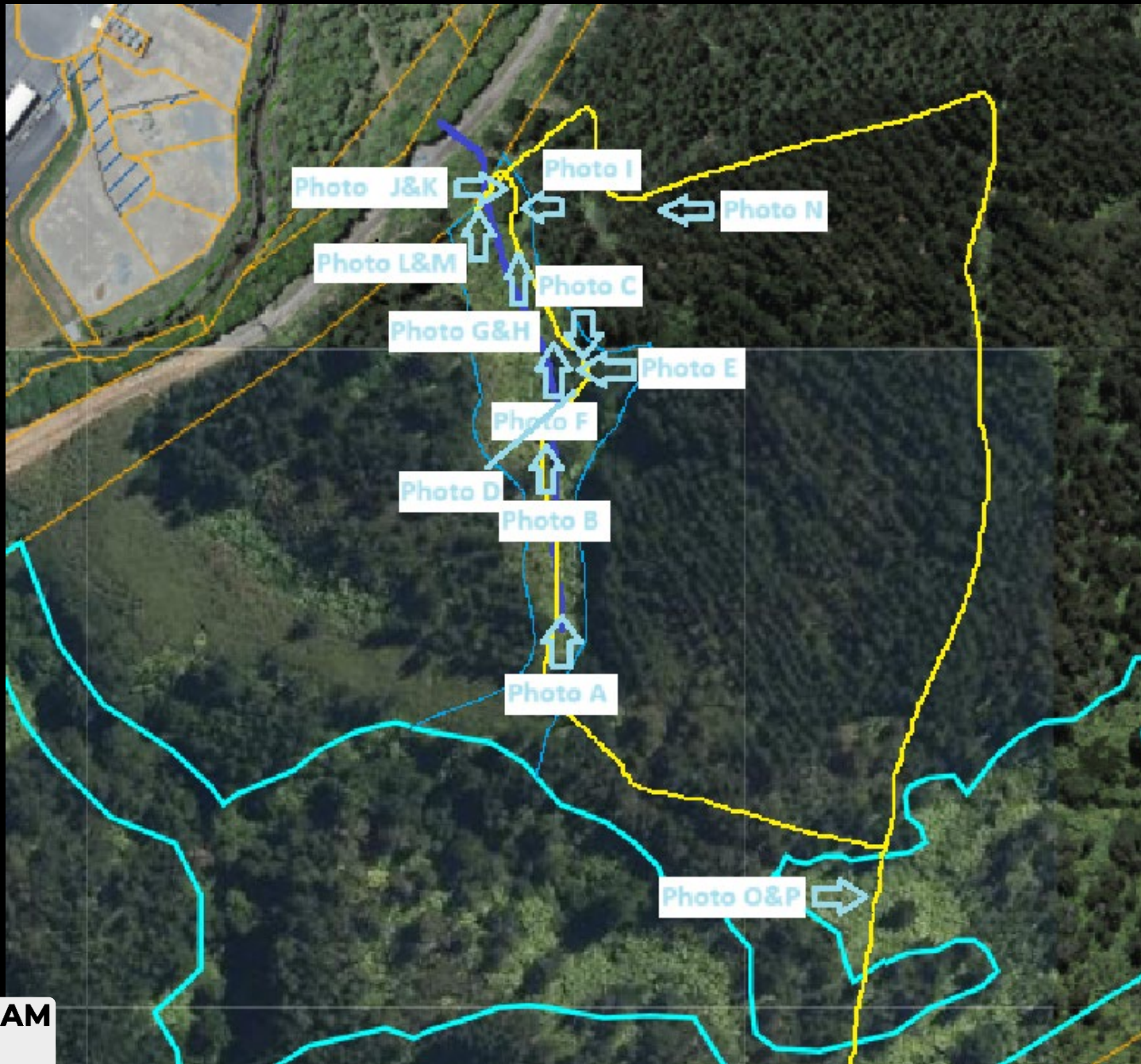


# Gully "B"

- Outside of current SNA area
- Viewed by Wildlands from Hulls Creek Area in June 2022.
- Stated as included as SNA in S32 report, confused with Gully "A".
- Walkouts conducted on 6 February and 10 March 2024.
- Should be included in SNA area.
- Contains mature beech, totara, and waterway with Koura.







**SILVER STREAM  
RAILWAY**  
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A



B



C



**SILVER STREAM  
RAILWAY**  
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**SILVER STREAM  
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L



M





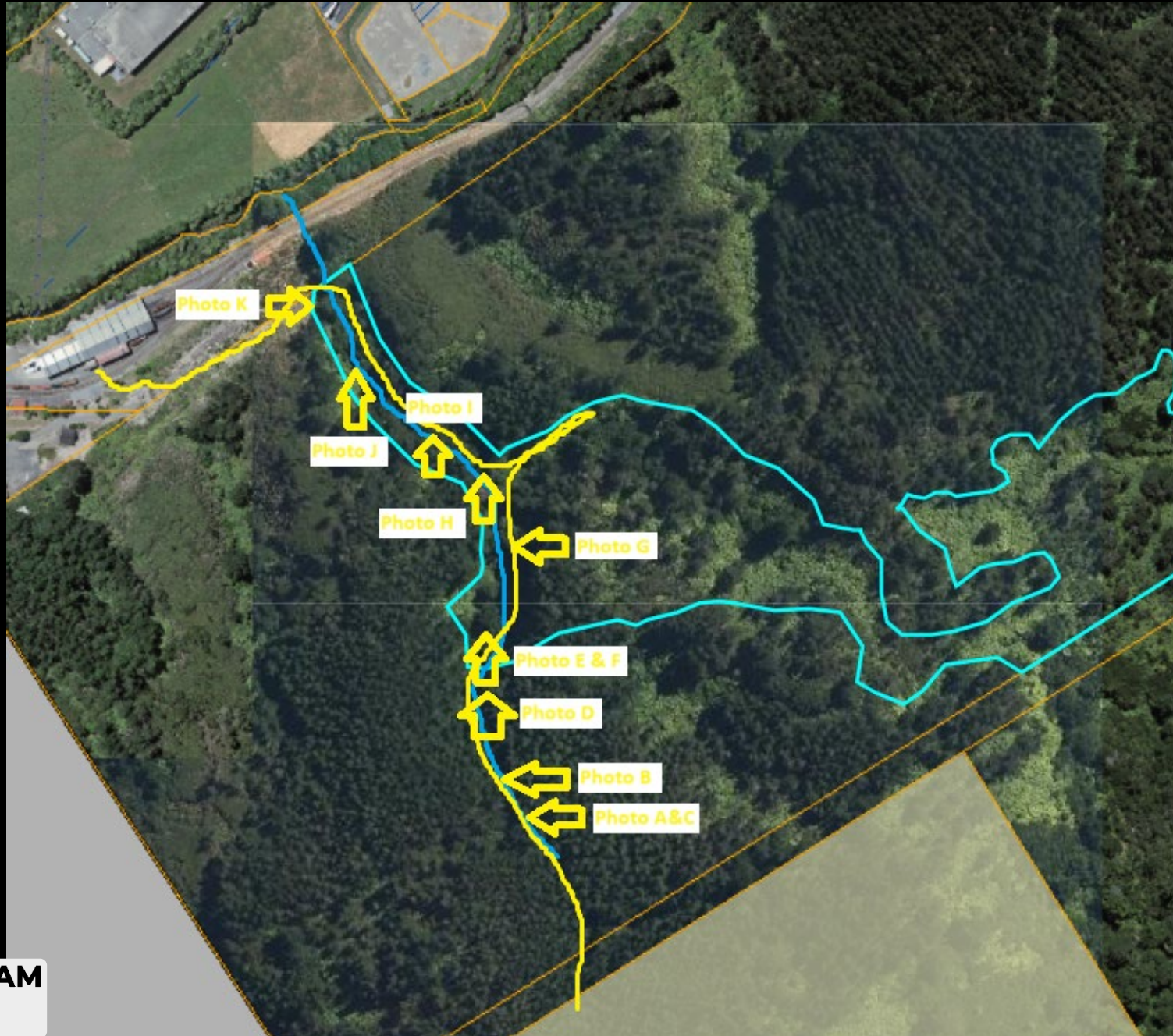


## Gully "A"

- Included as SNA in S32 report but proposed for removal by Mr Goldwater
- A small area viewed by Wildlands in June 2022.
- Contains remnant Beech forest and regenerating understory mainly Tawa
- Unaffected by pines and exotic species.
- Contains the longest stream with the highest flow rate.







**SILVER STREAM  
RAILWAY**  
HERITAGE RAILWAY



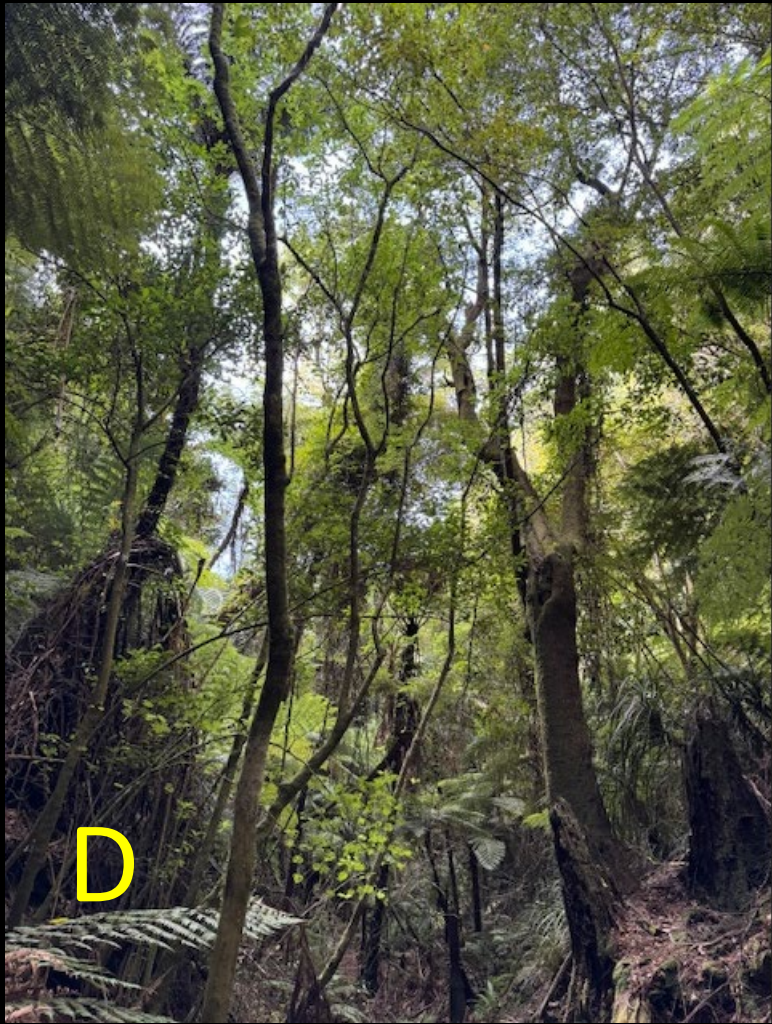
# Wildlands Site Visit June 2022





















- Other Areas of the Spur outside of the gullys and SNA's are regenerating.
- Areas affected by fire since 2000 have now transitioned from gorse into predominantly Manuka (at risk-declining) with early-stage regeneration occurring in light wells and underneath the Manuka
- SSR continues to assist with pest control measure on the Spur and is keen to work with other likeminded community groups and UHCC to undertake and assist with further restoration work on the Spur.
- To date pest control measures have seen almost 300 possums, rats, and stoats removed from the Spur thanks to the hard work of the community.
- Protection of the entire Spur as Natural Open Space will ensure that this work continues.



- **Representativeness:** Much more than areas dominated by Tree Ferns, many areas of mature serial broadleaf forest are evident with regeneration occurring bordering these areas
- **Rarity:** At least one at risk species (Manuka) seen, rare native lizards in neighbouring property's and likely on the Spur
- **Diversity:** There is a much wider range of diversity than has been able to be conveyed after brief site visits. The Spur is not the same in all areas free from pines.
- **Ecological context:** The Spur is part of a much wider area and does provide linkage and connectivity to other areas even if not possessed by GTC.
- **Tangata whenua:** Presence of Taonga Species (Koura) in multiple streams.



- We still seek the relief previously sought in the earlier parts of the hearing. In particular the removal of all provisions for a road/infrastructure corridor anywhere on the Spur land, it is simply not compatible with Natural Open Space Zoning.
- Retain existing SNA areas as proposed in S32 report.
- Link the area known as Gully B to the existing SNA area.
- These areas are the *minimum* areas that require inclusion as SNA areas.
- Include changes to NOSZ - R22 to include all vegetation in the definition to avoid any damage to existing and regenerating native vegetation.



# Retaining this and avoiding this





## **Silver Stream Railway: Speaking Notes for Plan Change 49 Variation 1 Reconvened Hearing**

**2.** April the 1<sup>st</sup> marked not only April fools day, but 10 years since our management committee of the time first exchanged emails about the Spur. Over that last decade there have been many hundreds, probably thousands of hours put in by our truly dedicated volunteers to defend not only our ability to continue doing what we love, and what brings enjoyment to our visitors, but only to preserve a slice of nature for the Upper Hutt Community. Our involvement in the process has evolved as it has gone on, and we can now add ecology to the list of skills our members are proficient with. This email from UHCC's general counsel in April 2021, demonstrates exactly what the community has been up against with this almost predetermined saga, but undeterred we are ready to have another go.

**3.** There has been some other updates which further negate the need for this road, which I will briefly touch on, namely the Future Development Strategy, which did not include the Southern Growth Area as an area for development,

**4.** with even Upper Hutt City Council now admitting that this is an "Unplanned Greenfields Area" along with most other land in the City as shown in this map that was part of their submission to the Natural Resources Plan Change 1 currently underway. The area of the Spur and above Sylvan Way are still shaded as urban, however we are hopeful of a resolution to this soon which will see these areas zoned entirely as Natural Open Space.

**5.** We have been concerned for some time that details about the size and location of the road/infrastructure corridor have always been blurred with statements to the effect that no work has been done on the design of the road therefore it is not know where and how much of the spur it will damage. However, by December 2020 there was an indicative road location, shown on this slide from a Councillor workshop that shows the road on the Spur traversing the current SNA.

**6.** That map was taken from this slide of the workshop that did contain a link that shows amongst other things an indicative road layout for the GTC (and we presume from the map) the Spur land.

**7.** The GTC Master plan from March 2021 contained a slightly different version of the road , to use the language from the Silverstream Forest website that " would sidle up the south side of the spur to join the rolling ridgetop land of the Silverstream Forest"

**8.** However after the councillors rejected the land swap and later the sale of 8.5ha of the Spur to GTC for housing and a road, this email shows that the direction had markedly changed from what only a few months earlier was the "master plan". Early July 2021 shows preparations being made for an application to the Infrastructure Acceleration Fund (IAF), for a road/infrastructure corridor on the Spur, from the 44 Kiln Street frontage, to the top of the ridge, 110mtrs higher.



**9.** By the end of July 2021 GTC had commissioned Envelope Engineering to undertake design work for the road for the expression of interest stage. We have concluded that later this work was updated to a more detailed design as was what would have been required for the Request for Proposal Stage the application reached before being declined.

**10.** Mr Reads evidence from November 2023 appears to contradict these known details, which his paragraph 5.4 states that the Envelope design work was done for the IAF application that included housing. At no stage was there any suggestion of the IAF being used to provide housing on the Spur.

**11.** This shows that the design concept from the March 2021 "Master Plan" has changed to being the shortest possible route up the Spur to gain 110 mtrs using the existing topography to not exceed a 8% gradient and taking 1.4km to get there without the need to permit housing. (Read Para 5.5)

**12.** As was in our last presentation the draft 42a report for the first version of PC49 from May 2022 talks of a road in a known location. We can not understand why there needs to be such high level secrecy and deceptiveness about the location and size of the road. While any sort of road is incompatible with the Natural Open Space Zoning for the Spur, we believe that if the true extent of the road was revealed then it would cause an even greater backlash from the community than what is occurring now.

**13 & 14.** While the exact location of the road remains an apparent mystery, the scale of the road is much easier to work out. We conclude from the evidence above that the road will be between 1.1 and 1.8km long. The 1.4km figure used by Envelope Engineering (Read Evidence Para 5.5) is the most reliable, as the 880mtr figure used in Mr Halls Rebuttal evidence (Para 4.3) is not a realistic figure considering the layout of the land between 44 Kiln Street and the top of the ridge adjoining GTC land, which features at least 2 large gully's and associated water courses. Using the Upper Hutt City Council Code Of Practice, we consider the 3.5ha figure arrived at by both Forest and Bird, UHCC and Mr Goldwater is at the extremely conservative end of the spectrum. We believe an area of 4ha or greater will be required to construct a road of the required size and shape to service the proposed number of houses as well as being utilised as a public transport route as is mentioned in the GTC evidence.

**15.** We had often wondered how the 2015 Ecological Report came into being, this was recently revealed in a release of emails by UHCC to an online OIA request site. There were various emails released including some internal emails between staff trying to find the best deal to come up with a report that did not turn into something bigger, and to only contain sufficient information to justify the sale of the Spur. The report compiled by Boffa Miskell cost UHCC \$3500, down from the \$10,000 quoted by reputable firm. Incidentally it seems the report was never finalised completely, still containing the word Draft in a few places, however as it was what UHCC were seeking they have used it as a way of downplaying any ecological merit the Spur has since it was published.

**16.** While I will not review the entire document, it does show that it is deficient in many areas. For example, this table shows the vegetation communities on the Spur from the 2015 report authored by Dr Keesing. It shows a total of 3% young gorse, 16% gorse broad leaf, 35% mixed serial broadleaf and 56% pine, meaning a total of 110% of the Spur was vegetated at that point. Using this table the 35% mixed broadleaf contained slopes with kamahi, manuka, broadleaf silver fern mix, where as the



gully's consist of mamaku and mahoe. There appears to be some missing text here as the next sentence is incomplete.

**17.** After this data is imputed into a map showing where these areas are on the Spur, the 35% of serial broadleaf vanishes, being replaced by "treefern". The gully's we talk about later in this presentation are all shown as either pine or tree fern.

**18.** We mentioned in our submission of the extensive archive of photos that has captured the evolution of the makeup of vegetation on the Spur. To ensure that the beech trees at the bottom of Gully B would have been visible in 2015 I selected these angles showing these trees as readily visible in 1985, 30 years before the visit from Dr Keesing.

**19.** Even to our untrained eyes these Beech trees do not look anything like plantation pine or tree fern which makes the statements contained about the ecology, not forgetting the erroneous statements about water courses, hard to accept as fact.

**20.** However the information contained in the report was exactly what UHCC staff had "expected" and they finally had the justification to sell the Spur.

**21-24.** I now move on to the ecological information contained in the GTC Masterplan document. We feel this is important as it seems to contradict several key statements from their expert witnesses. This slide talks about the connectivity the site permits across the Hutt Valley, yet in the rebuttal statements of Mr Hall ( paragraphs 3.3, 5.1, and 5.12) and Dr Keesing (paragraphs 3.9, 3.10, 3.15, 4.1, 4.4, and 4.5) they state that the Spur is ( assumably no longer) able to provide this connectivity and in fact this connectivity is virtually impossible to prove or disprove (Keesing 3.10) The master plan also states that using the Boffa Miskell 2015 report, that the Spur is 71% exotic, yet the 2015 report states 75% out of 110% had some form of exotic component to its assemblage.

This and the next few slides demonstrate that when it suits GTC can promote the usefulness of the Spur in terms of ecological value and connectivity function, remembering the 2015 report stated in closing there is "no evidence nor reason to conclude that the Silverstream Spur has any current important ecological values, nor has it any critical ecological functional roles in the wider or local landscape including a corridor function".

**25.** This slide again from the GTC Masterplan shows the SNA area on the Spur (and surrounding land) that resembles the UH070 SNA that was the basis for the SNA (or SSSNA) on the Spur as part of PC49V1. The source for this is quoted as being Boffa Miskell and we conclude that this is the work Dr Keesing talks of in his original evidence (paragraphs 4.3, 4.9, 4.11.1 and 4.12) in particular "The Natural Area on the Silverstream Spur identified in Variation-1 does not reflect my expert opinion as to the values present on the Silverstream Spur, or the values that Boffa Miskell or I had previously mapped as part of our work on the wider GTC site", yet aside from the Gully A area the 2 areas are identical, in both the master plan, and the S32 assessment of PC49V1.



26: In the master plan GTC state 29% of the Spur is either broadleaf indigenous hardwood (10%) or indigenous forest (19%), which when added to the 56% pine and 15% gorse/broom gives 100% coverage. We can only conclude from this that the 6 years between the master plan and the 2015 Boffa Miskell report, were fairly active growing seasons for the native species on the Spur. It also states a 1.1km road, which we have shown cannot be believed to be correct.

27. Over the last few years with some added emphasis in the last few months when questions were raised about the accuracy of the evidence presented at the hearing, our members have either individually or collectively walked over parts of the Spur.

28. It was considered that viewing the area of “the ponga-mamaku tree fern area does not play an important role or function in either linkage or buffering of the beech-kamahi SNA areas” (Keesing Rebuttal statement Para 4.5) to get an idea for ourselves just what this area contains. Entering via the public carpark and walking track on Sylvan Way we headed over the paper road and along the ridge before heading down into the gully, and doubling back exiting the SNA area briefly before re-entering the gully and heading along the watercourse before retracing our steps back to Sylvan way. We did for a moment consider the possibility that we had gone to the wrong area, because in our assessment the area is far from being “low-diversity ponga-mamaku tree fernland” (Keesing rebuttal evidence Para 37.b) it actually being very similar in assemblage to the Gully A, with many large beech, kamahi, and evedance of regeneration all around. Any tree fern that is in place is mature rather than “fundamentally young tree fern” (Keesing November 2023 Paragraph 10.3) and is another important part of the Spur, and when coupled with the stream we located, was an exciting revelation and well worth the walk.

Last slide: As was indicated in the previous part of the hearing, a paper did go to council in February, seeking urgent removal of the pine trees on the Spur, after an approach from a “commercial interest”. Despite attempting to engage with council staff prior to this paper being released, the community was left out of this attempt, and as expected it was turned down by the elected members of council. The \$480,000 price tag showed how rushed and poorly thought out the proposal was. We would still like to work in with council and other likeminded groups with no commercial interest in the Spur to develop a plan that would over the next few decades free the spur from its cloak of pines and increase the current diversity and richness of the remaining indigenous areas.



## Michael Gibbons

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**From:** OIA Requests  
**Subject:** RE: Buddle Findlay advice on Silverstream Spur [BUD-LIVE.FID1142427]

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**From:** David Randal <[david.randal@buddlefindlay.com](mailto:david.randal@buddlefindlay.com)>  
**Sent:** Tuesday, 17 May 2022 2:27 pm  
**To:** Guy Smith <[guy.smith@uhcc.govt.nz](mailto:guy.smith@uhcc.govt.nz)>  
**Subject:** RE: Buddle Findlay advice on Silverstream Spur [BUD-LIVE.FID1142427]

### Scope of a submission – plan changes and variations

See [Palmerston North CC v Motor Machinists Ltd \[2013\] NZHC 1290](#), for an authoritative statement of the law on whether a submission is “on” a plan change. The Court explicitly endorsed the bipartite approach in [Clearwater Resort Ltd v Christchurch CC HC Christchurch AP34/02, 14 March 2003](#) by which analysis is required as to whether, first, the submission addresses the change to the status quo advanced by the proposed plan change and, secondly, there is a real risk that persons potentially affected by such a change have been denied an effective opportunity to participate in the plan change process. The Court in [Palmerston North CC v Motor Machinists Ltd](#) said that:

(a) The first limb requires that submissions must reasonably be said to fall within the ambit of the plan change. One way of analysing that is to ask whether the submission raises matters that should have been addressed in the s 32 evaluation and report. If so, the submission is unlikely to fall within the ambit of the plan change. Another is to ask whether the management regime in a district plan for a particular resource is altered by the plan change. If it is not, then a submission seeking a new management regime for that resource is unlikely to be “on” the plan change, unless the change is merely incidental or consequential.

(b) The second limb asks whether there is a real risk that persons directly or potentially directly affected by the additional changes proposed in the submission have been denied an effective opportunity to respond to those additional changes in the plan change process. A precautionary approach is required to receiving submissions proposing more than incidental or consequential further changes to a notified proposed plan change. Robust, sustainable management of natural and physical resources requires notification of a s 32 analysis of the comparative merits of a proposed plan change to persons directly affected by those proposals (which would not occur). Incidental or consequential extensions of zoning changes proposed in a plan change are permissible, provided that no substantial further s 32 analysis is required to inform affected persons of the comparative merits of that change. The change to the scope and focus of s 32 under the RMA13 does not appear to alter the validity of this approach.

The Court further said that the approach taken by the Environment Court in [Naturally Best NZ Ltd v Queenstown Lakes DC EnvC C049/04](#) of endorsing “fair and reasonable extensions” is not correct. Where a submission does not meet each limb of the Clearwater test, the submitter has other options: to submit an application for a resource consent, to seek a further public plan change, or to seek a private plan change.

A summary of the relevant case law is set out in [Environmental Defence Soc Inc v Otorohanga District Council \[2014\] NZEnvC 70](#). See also [Vernon v Thames-Coromandel District Council \[2017\] NZEnvC 2](#).

In [Healthlink South Ltd v Christchurch International Airport Ltd \[2000\] NZRMA 375](#), the High Court noted that the barrier for participation should not be unreasonably high and that the test for participation should be that of a reasonably informed reader or citizen, not someone with knowledge of planning matters well above the informed citizen and apparently approaching expertise. See also [Progressive Enterprises Ltd v Hastings District Council \[2015\] NZEnvC 187](#), and [Hills Laboratories Ltd v Hamilton City Council \[2016\] NZEnvC 23](#).



In *Campbell v Christchurch CC* [2002] NZRMA 352(EnvC), the Court considered whether the plaintiff's submission and reference gave the Environment Court jurisdiction to entertain the relief sought. The test is whether the submission, as a whole, fairly and reasonably raises some relief, expressly or by implication, about an identified issue. In considering whether the submission reasonably raises any particular relief the Environment Court considered the following factors relevant: (1) the submission must identify what issue is involved and some change sought in the proposed plan; (2) the local authority must be able to summarise it accurately and fairly; and (3) the submission should inform others what it is seeking, but it will not be automatically invalid if unclear.

In *Clearwater Resort Ltd v Christchurch CC* [HC Christchurch AP34/02, 14 March 2003](#), Clearwater sought to argue, on a variation, that noise contour lines already in the proposed plan were ultra vires. A submission is "on" a variation if it addresses the extent to which the variation changes the pre-existing status quo; but only if the effect of the submission allows a real opportunity to potentially affected persons to participate in the plan review process. If this opportunity is denied, this indicates the submission went beyond the variation and was not on it. The cross-submission process may be inadequate to allow true public participation where a submission seeks to make major alterations to the variation. A submission would not be "on" the relevant matter if the effect of accepting that submission would be to amend the planning instrument without giving effective opportunity for participation by those potentially affected. To be valid, a submission must stay within the ambit of the change or variation: IHG [Queenstown Ltd v Queenstown Lakes DC EnvC C078/08](#).

Examples of whether a submission was "on" a plan change, or went beyond it, are: [Halswater Holdings Ltd v Selwyn DC \(1999\) 5 ELRNZ 192\(EnvC\)](#); [Striker Holdings \(No 3\) Ltd v Paparua CC \(1989\) 13 NZTPA 420](#); [Taylor v Manukau CC \(1979\) 8 NZTPA 71](#); *Ryman Abbotts Way Ltd v Auckland CC* [EnvC A088/04](#). The three tests set out in Clearwater were applied in [Avon Hotel Ltd v Christchurch CC \[2007\] NZRMA 373\(EnvC\)](#), to establish whether there was jurisdiction to lodge an appeal. See also *Solid Energy Ltd v Central Otago DC* [\[2012\] NZEnvC 173](#) for an example of relief being struck out as not properly arising from a submission "on" a plan change.

The tests of *Palmerston North CC* (above) and Clearwater (above) were applied in [Turners and Growers Horticulture Ltd v Far North District Council \[2017\] NZHC 764, \(2017\) 20 ELRNZ 203](#), where the Court held that the changes to the district plan sought by Turners would affect a much wider class of persons than the change as notified. That would effectively cut that wider class out of the submission process. The submission was therefore held not to be "on" the plan change.

The Environment Court held in *Bezar v Marlborough DC* [EnvC C031/09](#) that, having regard to the actual provisions of the proposed plan change, a submission seeking to rezone land was insufficiently connected to the purpose of the proposed variation, making it impossible for members of the public to anticipate the changes and participate in the process. The council had gone beyond its jurisdiction and in doing so had adversely affected the interests of other landowners. This decision was upheld on appeal to the High Court in [Option 5 Inc v Marlborough DC \(2009\) 16 ELRNZ 1\(HC\)](#). The High Court agreed with the Environment Court that whether a submission is "on" a plan change or variation will be a question of scale and degree.

The Court in [High Country Rosehip Orchards Ltd v Mackenzie DC \[2011\] NZEnvC 387](#) addressed the second limb of the test in Clearwater, which relates to a submission not being "on" a plan change if the planning instrument could be amended without giving effective opportunity for participation by those potentially affected. It expressed concern that the High Court in Clearwater may have overlooked the powers available under s 293 to remedy the lack of participation, and considered that the test may therefore be too rigid.

Extrapolating from the Clearwater authority (above), the High Court in [Protect Pauanui Inc v Thames-Coromandel DC \[2013\] NZHC 1944, \[2013\] NZAR 1269](#) considered that a submission could not be said to be



“on” a variation if the effect of taking the submission into account would be to permit a planning instrument to be “appreciably amended” without those potentially affected having a real opportunity to participate.

A submission seeking new zoning and rules did not address the extent of alteration to the status quo proposed by a plan change that uplifted a future urban growth notation from the land but did not alter its zoning or rules: *Re Palmerston North Industrial and Residential Developments Ltd* [2014] NZEnvC 17, (2014) 17 ELRNZ 501.

The RMAM13 has not substantially changed the law (as set out in *Clearwater and Motor Machinists*) in relation to whether submissions are “on” a plan change. Rather, the amendments have merely reinforced and expressly stated the need for a comparative analysis, which the High Court held in *Motor Machinists* to be inherent in s 32: see *Well Smart Investment Holding (NZQN) Ltd v Queenstown Lakes DC* [2015] NZEnvC 214.

See *Bluehaven Management Ltd v Western Bay of Plenty District Council* [2016] NZEnvC 191 for the application of the *Clearwater and Motor Machinists* approach in the context of appeals under cl 14. *Bluehaven Management Ltd v Western Bay of Plenty District Council* was followed in *Calcutta Farms Ltd v Matamata-Piako District Council* [2018] NZEnvC 187.

See also *Federated Farmers of New Zealand (Inc) Mackenzie Branch v Mackenzie District Council* [2017] NZEnvC 53, for a discussion of scope issues in the context of the Court’s powers to consider and confirm (or otherwise) changes to provisions which it has directed a council to prepare under s 293 of the Act.

The Court in *Director-General of Conservation v Whangarei District Council* [2021] NZEnvC 17 stated that the value of the matter that is being sought to be protected is a relevant issue when considering whether a submission is “on” the plan change.

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**From:** Guy Smith <[guy.smith@uhcc.govt.nz](mailto:guy.smith@uhcc.govt.nz)>  
**Sent:** 17 May 2022 13:53  
**To:** David Randal <[david.randal@buddlefindlay.com](mailto:david.randal@buddlefindlay.com)>  
**Subject:** FW: Buddle Findlay advice on Silverstream Spur

Can you have a look and give me a further call?

I really want the answer to be: it’s fine.

---

**From:** Emily Thomson <[Emily.Thomson@uhcc.govt.nz](mailto:Emily.Thomson@uhcc.govt.nz)>  
**Sent:** Tuesday, 17 May 2022 10:57 am  
**To:** Guy Smith <[guy.smith@uhcc.govt.nz](mailto:guy.smith@uhcc.govt.nz)>  
**Subject:** RE: Buddle Findlay advice on Silverstream Spur

Yes after 1.30

---

**From:** Guy Smith <[guy.smith@uhcc.govt.nz](mailto:guy.smith@uhcc.govt.nz)>  
**Sent:** Tuesday, 17 May 2022 10:45 am  
**To:** Emily Thomson <[Emily.Thomson@uhcc.govt.nz](mailto:Emily.Thomson@uhcc.govt.nz)>  
**Subject:** RE: Buddle Findlay advice on Silverstream Spur

Hey sorry just on a call until 11, and then another one at 11:30 😊

You around this arvo?



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**From:** Emily Thomson <[Emily.Thomson@uhcc.govt.nz](mailto:Emily.Thomson@uhcc.govt.nz)>

**Sent:** Tuesday, 17 May 2022 10:34 am

**To:** Guy Smith <[guy.smith@uhcc.govt.nz](mailto:guy.smith@uhcc.govt.nz)>

**Subject:** RE: Buddle Findlay advice on Silverstream Spur

Hi,

Currently free until 11am (working from home today)

The situation is summed up quite nicely in the Draft Section 42A report on this topic (extract below)

## “Topic 1: Silverstream Spur Requested Zoning

### **Matters raised by submitters**

A strong theme among the submissions received on the proposed plan change was the decision sought that the Silverstream Spur should be zoned as Natural Open Space. Out of the 27 submissions received during the notification period for Plan Change 49, 12 of those submissions were requesting the spur be rezoned to Natural Open Space or a similar zoning.

During the further submission stage 47 further submissions were received that supported the submission points raised requesting that the spur site be zoned as Natural Open Space.

The reasons provided for zoning the spur as Natural Open Space include:

- The Spur is of ecological importance being utilised for wildlife migration and as a bird corridor, providing an important linkage between other green spaces in the area. Council should focus on enhancing native flora and fauna on the spur.
- The Spur should not be developed for any residential purposes and should be used for conservation and recreation purposes exclusively.
- The Spur defines the entry to Upper Hutt and is an iconic landscape that should be protected and maintained.
- The Spur was originally purchased for the purpose of reserve land and Council should give effect to that original intent.

One further submission was received from Guildford Timber Company (GTC) who supported in part the request to zone the spur as Natural Open Space, but sought that provision is made for a roading corridor through the spur site to allow for access to the area of land referred to as the Southern Growth Area.

### **Analysis**

The Silverstream Spur is a 35-hectare site in the south-west of Upper Hutt which is owned by Upper Hutt City Council, being purchased in 1989. Under the Operative District Plan, the spur site is split zoned between General Rural and Residential Conservation. The notified plan change did not make any changes to the current zoning of the site.

The spur site itself was subject to a Memorandum of Understanding (MoU) between Upper Hutt City Council and Guildford Timber Company, with the intention that the spur site would be swapped with land under the Guildford ownership, which would be used for recreation purposes.

The reason for the proposed swap was based on the strategic importance that the Spur site holds in unlocking the growth potential of the Southern Growth Area (land owned by Guildford Timber Company). The Southern Growth Area is identified within the Upper Hutt Land Use Strategy (2016) as the main location for new growth within the next 10-30 years. The Land Use Strategy also highlights the Spur as key to providing access to the Southern Growth Area. The Southern Growth Area is also included in the Wellington Regional Growth Framework (2021) as an identified Future Urban Area.

The notified plan change did not propose inclusion of the Spur due to the significant amount of uncertainty over the future use of the land. Firstly, the MOU with GTC was in effect, so the land was intended to eventually be utilised for a range of different land uses once swapped or sold to Guildford Timber Company. Considering the approach of avoiding private land as open space, with the uncertainty over the future of the site's ownership, a zoning change was not considered appropriate. Furthermore, with other work being undertaken by Council, including on the residential and rural plan change (Plan Change 50), there were other relevant plan changes which could review the



zoning of the spur over the following years. Therefore, the approach of leaving the spur out of scope of the notified plan change was well reasoned.

However, since the notification of Plan Change 49 the situation regarding the Spur has changed. Of most significance is the conclusion of the MoU. During an Extraordinary Council Meeting on the 22<sup>nd</sup> September 2021 Councillors agreed to conclude the MoU with GTC. Therefore, there is now greater certainty that Council will not sell or swap the spur land with GTC, and that it will remain in public ownership.

Furthermore, Council supported an Expression of Interest application to the Governments Infrastructure Acceleration Fund. The application is for a road/infrastructure corridor on the Spur site which will enable access to the Southern Growth Area. The Expression of Interest was not successful but the proposal to retain the majority of the spur land in public ownership while enabling a road through it has Council support in principle.

Now that there is now a better understanding on the future ownership and likely development on the Spur, the scope decision can now be revisited especially as there have been many submissions and further submissions seeking the spur be rezoned in this plan change.

The options that there is scope to consider, based on the notified proposal and the submissions received on the site, are restricted to those below:

- Retain the Silverstream Spur site as out of scope of Plan Change 49
- Rezone the Silverstream Spur as Natural Open Space
- Rezone the Silverstream Spur as Natural Open Space and introduce provisions to allow for a road corridor with associated infrastructure through the spur.

It is clear from the number of submissions and further submissions received that the community feel strongly about the protection of the spur from future development. There has been no evidence provided by any of the submitters in support of the claims that the site has significant ecological or landscape value, but I do note that parts of the site have been identified in the proposed Significant Natural Area (SNA) plan change as meeting the threshold for SNA. The importance of the Southern Growth Area in terms of delivering greenfield development for Upper Hutt, something which is recognised within local and regional strategies and plans, cannot be ignored. The delivery of development on the Southern Growth Area is still intrinsically linked with the access through the Silverstream Spur site.

Understanding the likely future use of the site will be focused on a roading corridor and associated infrastructure to access the Guildford owned land, any zoning of Natural Open Space would make a consenting pathway for such development difficult to achieve. The proposed provisions for the Natural Open Space zone are focused on maintaining and protecting the natural character of the zone whilst allowing for activities and development of a suitable scale and aligned with the purpose of the zone. Therefore, if the simple rezoning approach was taken this would not be recognising that the spur has been identified as an area where a roading corridor will be provided. Therefore, I do not believe the rezoning approach without looking at suitable provisions is suitable.

Overall, I recommend accepting the request to zone the site as Natural Open Space is appropriate, based on the certainty that the site is intended to remain in public ownership, will not be sold or swapped, and is not proposed to residential development. Therefore, a change of the underlying zoning to reflect the natural character and public ownership of the site is also considered acceptable.

However, I also recommend accepting the further submission from Guildford Timbre Company. The importance of the spur as an access providing link with the southern growth area cannot be ignored, and whilst the rezoning of the spur is appropriate, the introduction of provisions to allow for the necessary infrastructure to provide access is also considered necessary.

These provisions will focus on ensuring that there is a viable pathway for the construction of a road corridor on the spur site whilst also ensuring the underlying zoning and the natural character of the site are recognised and provided for.

Due to the site-specific nature of these provisions, I propose that introducing a precinct on the spur site with an associated provisions framework is the best approach in this instance. The proposed precinct does not need to encompass the entire spur site as there is an initial indication of where the proposed roading corridor will be located. Therefore, the proposed precinct will encompass the area with a broader boundary to allow for any future alterations to the corridor which may deviate from the current proposed indicated corridor.

### **Recommended decision**

That the submission from Jonathan Board **[S3.1]** for the reasons provided above is **accepted in part**



That the submission from Doug Fauchelle **[S4.1]** for the reasons provided above is **accepted in part**

That the submission from Graham Bellamy **[S1.1]** for the reasons provided above is **accepted in part**

That the submission from Sean Kusel **[S6.1]** for the reasons provided above is **accepted in part**

That the submission from Cameron Seay **[S7.1]** for the reasons provided above is **accepted in part**

That the submission from Tony Chad **[S13.1]** for the reasons provided above is **accepted in part**

That the submission from Save Our Hills **[S14.1]** for the reasons provided above is **accepted in part**

That the submission from Silver Stream Railway **[S27.1]** for the reasons provided above is **accepted in part**

That the submission from Forest and Bird **[S23.6]** for the reasons provided above is **accepted in part**

That the submission from Mary Beth Taylor **[S10.4]** for the reasons provided above is **accepted in part**

That the submission from Abbie Spears **[S17.3]** for the reasons provided above is **accepted in part**

That the further submission from Duncan Stuart **[FS1]** is **accepted in part**

That the further submission from Graham Bellamy **[FS2]** is **accepted in part**

That the further submission from Peter Ross **[FS3]** is **accepted in part**

That the further submission from Pat van Berkel **[FS5]** is **accepted in part**

That the further submission from John D O'Malley **[FS6]** is **accepted in part**

That the further submission from Mary Beth Taylor **[FS8]** is **accepted in part.**

That the further submission from Kylee Evana Taramai **[FS9]** is **accepted in part**

That the further submission from Beatrice Serrao **[FS10]** is **accepted in part**

That the further submission from Tony Chad **[FS12]** is **accepted in part**

That the further submission from Silver Stream Railway **[FS13]** is **accepted in part**

That the further submission from Save Our Hills **[FS14]** is **accepted in part**

That the further submission from Shelley Dixon **[FS15]** is **accepted in part**

That the further submission from Patricia Duncan **[FS16]** is **accepted in part**

That the further submission from Craig Thorn **[FS17]** is **accepted in part**

That the further submission from Michelle Browning **[FS18]** is **accepted in part**

That the further submission from Dominic Baron **[FS19]** is **accepted in part**

That the further submission from Darryl Longstaffe **[FS20]** is **accepted in part**

That the further submission from Natasha Colbourne **[FS21]** is **accepted in part**

That the further submission from Pinehaven Progressive Association **[FS22]** is **accepted in part**

That the further submission from Stephen Pattinson **[FS23]** is **accepted in part**

That the further submission from Guildford Timbre Company **[FS24]** is **accepted.**

That the further submission from Doug Drinkwater **[FS25]** is **accepted in part**

That the further submission from Janice Carey **[FS26]** is **accepted in part**

That the further submission from Anthony Carey **[FS27]** is **accepted in part**

That the further submission from Leonie Belmont **[FS28]** is **accepted in part**

That the further submission from Marion Rough **[FS29]** is **accepted in part**

That the further submission from Sandra E Kenny **[FS30]** is **accepted in part**

That the further submission from Douglas William Dunn **[FS31]** is **accepted in part**

That the further submission from Colin Buckettt **[FS32]** is **accepted in part**



That the further submission from Jason Durry [FS33] is **accepted in part**

That the further submission from Benjamin Michael Jones [FS34] is **rejected**

That the further submission from Gerry Bealing [FS35] is **accepted in part**

That the further submission from Caleb Scott [FS36] is **rejected**

That the further submission from Rhys Lloyd [FS37] is **rejected**

That the further submission from Nadine Ebbett [FS38] is **rejected**

That the further submission from Katelin Hardgrave [FS39] is **rejected**

That the further submission from Tommy Mortimer [FS40] is **rejected**

That the further submission from Jennifer Durry [FS41] is **rejected**

That the further submission from John Durry [FS42] is **accepted in part**

That the further submission from Trevor Richardson [FS43] is **accepted in part**

That the further submission from David Grant-Taylor [FS44] is **accepted in part**

That the further submission from Nick Moylan [FS45] is **accepted in part**

That the further submission from Fraser Robertson [FS46] is **rejected**

That the further submission from Ian price [FS47] is **accepted in part**

That the further submission from Sue Pattinson [FS48] is **accepted in part**

That the further submissions from James Hill [FS49] is **accepted in part**

**Recommended amendments**

New	<a href="#">NOSZ Precinct 1 – Silverstream Spur</a>
New objective	<a href="#">NOSZ-PREC1-O1:</a> <a href="#">The natural character and amenity of the Silverstream Spur is maintained and protected whilst recognising the strategic importance of the site for the accessibility of the Southern Growth Area.</a>
New Policy	<a href="#">NOSZ-PREC1-P1</a> <a href="#">Provide for a road corridor and associated infrastructure on the Silverstream Spur that provides access to the land identified as the Southern Growth Area within the Land Use Strategy whilst maintaining the natural character and amenity values of the site.</a>
New Rule	<a href="#">NOSZ-PREC1-R1</a> <a href="#">Establishment of a road corridor and associated infrastructure on the Silverstream Spur</a>

**Section 32AA evaluation**



### **Effectiveness and efficiency**

The recommended rezoning and precinct introduction are an effective way of recognising the indicated future purpose and public owned nature of the Silverstream Spur site, whilst acknowledging that the spur site is linked with the Southern Growth Area and is important to providing access to the growth area.

The underlying zoning will protect any natural character of the spur site and provides greater certainty to the community over the ownership and any likely development to occur on the spur. The use of a precinct is an effective and efficient way of ensuring that the very specific future use of the site can be considered, and effects managed. As discussed in the above assessment, the approach of rezoning the spur as Natural Open Space in general does not align with the known intended use of the spur as a roading corridor, based on the purpose and provisions for that zone. A precinct and the proposed provisions for the precinct are effective and efficient at managing the effects of known development with the proposed underlying zoning.

### **Other reasonably practicable options**

The assessment above does provide some consideration of the different options available with regards to the site. Retaining the out-of-scope decision of the notified plan change no longer seems appropriate, as the uncertainty over the future ownership and utilisation of the site has been removed. Furthermore, it is clear from the number of submissions and further submissions received on the zoning of the site that there is a strong feeling amongst the community that they would like the site to be zoned as Natural Open Space. Therefore, I no longer believe leaving the spur as out of scope is the most practical option, as this plan change offers the opportunity to consider the zoning of the site.

However, I do not believe that the most practical option is to simply rezone the spur as Natural Open Space as requested by the submitters. This approach would be ignoring the well-established recognition that the spur is important in providing access to the Southern Growth Area, and that there is an application for a roading corridor on the site currently being submitted to the Infrastructure Acceleration Fund.

Another valid option would be the introduction of provisions relating to roading infrastructure into the Natural Open Space Zone rather than using a precinct approach. However, as the provisions will only be applicable to the spur site, it seems more effective to use the spatial approach through a precinct for the site.

### **Cost and benefits**

The benefits of the change of the spur zoning included environmental benefits for the site due to the underlying zoning containing provisions which are focused on the protecting and maintain natural character. The zoning also prevents large scale development, such that the landscape character and visual amenity of the spur will be protected.

Social benefits of the proposed zoning change include providing certainty to the community that an area of land which is clearly valued by Upper Hutt residents will be zoned in line with community aspirations. There will also be wider social and economic benefits by introducing provisions which will ensure access through the spur to the southern growth area can still be achieved, which will allow for housing development and the associated positive social and economic effects of this.

I do not consider that the proposed amendment will result in substantive additional costs. Whilst a change of zoning for the spur to Natural Open Space will mean that the development potential of the spur is limited, based on the direction that Council has indicated for the spur, the overall effect is limited.

### **Risks of acting or not acting**

I do not consider that there is a large risk of not acting, as the spur site is owned by Council and there are other plan changes which could consider the zoning of the site if this plan change does not rezone the spur.

The small risk of acting could include restricting the ability to provide for a road on the spur, a proposal that Council has supported through the Infrastructure Acceleration Fund, by a change of the underlying zone. However, the proposed precinct provisions consider and address this risk."

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**From:** Guy Smith <[guy.smith@uhcc.govt.nz](mailto:guy.smith@uhcc.govt.nz)>

**Sent:** Tuesday, 17 May 2022 10:11 am



To: Emily Thomson <[Emily.Thomson@uhcc.govt.nz](mailto:Emily.Thomson@uhcc.govt.nz)>  
Subject: FW: Buddle Findlay advice on Silverstream Spur

Further to our earlier chat I need to go back to 7(2)(a) on the below.

Drop me a line when free?

G

---

From: 7(2)(a)  
Sent: Thursday, 28 April 2022 7:45 am  
To: Guy Smith <[guy.smith@uhcc.govt.nz](mailto:guy.smith@uhcc.govt.nz)>; Forest & Bird, Upper Hutt Branch <[UpperHutt.Branch@forestandbird.org.nz](mailto:UpperHutt.Branch@forestandbird.org.nz)>; Pinehaven Hills <[helpsaveourhills@gmail.com](mailto:helpsaveourhills@gmail.com)>  
Subject: Re: Buddle Findlay advice on Silverstream Spur

Hello Guy

Thank you for sending that through.

Interestingly it states repeatedly in the contents that PC49 is the correct vehicle for deciding the zoning of the Spur, we assume from this that BF were not provided the brief which deemed the Spur was “out of scope” of PC49? Obviously with the number of submissions and petition signatures submitted on the issue it seems likely that there will be some scope in the plan change to make some decisions? Another action that came from our meeting in December was for the question of why the Spur was deemed out of scope of PC49 which to be investigated and reported back more thoroughly to the group. We were wondering how this was progressing?

As it looks like I provided most of the background information for this legal opinion, it would be appreciated if you could forward on any information that UHCC directly contributed towards it, in particular the documents referred to in Paragraph 16 and the 48 and 59 (a) in particular the “number of other historical documents which indicate the council saw potential for other uses, including residential development”.

Many thanks

7(2)(a)

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From: [Guy Smith](#)  
Sent: Friday, April 22, 2022 4:28 PM  
To: 7(2)(a) ; [Forest & Bird, Upper Hutt Branch](#) ; [Pinehaven Hills](#)  
Subject: Buddle Findlay advice on Silverstream Spur

Good afternoon all,

Hope you all got a good break in over Easter. Apologies that this has been delayed in delivery a couple of additional days due to me taking some time off this week for the school hols.

Please find attached, strictly on a **without prejudice, confidential and without waiver of privilege** basis, the opinion of Buddle Findlay on the questions we posed them about the Silverstream Spur.

I hope you find it interesting and thorough, as I did. I'm happy to discuss it further of course and look forward to any comments your peer reviewer might have.

Regards,



Guy.

**Guy Smith**  
General Counsel



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[838 - 842](tel:838-842) Fergusson Drive, Private Bag 907, Upper Hutt 5140, New Zealand

DDI: [+64 4 527 2147](tel:+6445272147) | Mobile: [+64 21 392 142](tel:+6421392142)

Īmēra: [guy.smith@uhcc.govt.nz](mailto:guy.smith@uhcc.govt.nz) | Pae Tukutuku: [www.upperhuttcity.com](http://www.upperhuttcity.com)

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**From:** [Andrea Hilton](#)  
**To:** s7(2)(a)  
**Cc:** [Toni Neale](#); [Peter Kelly](#)  
**Subject:** Guildford Timber Company Limited and land transaction with UHCC  
**Date:** Friday, 23 April 2021 3:42:00 pm  
**Attachments:** [S&P conditions for UHCC meeting 17 March 2021.docx](#)  
[Record of Meeting on 29 March 2021.msg](#)  
[image001.gif](#)  
[image002.gif](#)

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Hi Joy

Further to our conversation this morning, negotiations have reached a point where terms and conditions for the sale and purchase agreement or agreements need to be in more detail than the high level conditions that we have discussed and you provided earlier. I think it would be useful if you were to meet with Peter Kelly and myself to discuss these terms and conditions in detail. With that in mind, could you please contact Toni Neale, Peter's EA, to arrange a time for you to come to the Council office.

To bring you up to date I enclose the following:

1. Terms and Conditions containing UHCC's conditions as at 22 December 2020 and GTC's response to those conditions dated 16 March 2021.
2. Email dated 30 March 2021 from A Hilton to J McKibbin recording the meeting held on 29 March 2021.

The Council had a workshop on Friday 9 April 2021 to give GTC an opportunity to tell the Councillors about their proposal to develop both the Council's Spur land and the GTC land. Valuations were also discussed.

After GTC representatives left, Councillors discussed with officers the proposal and the valuations. As you will recall from the Memorandum of Understanding, the original proposal was that there would be a land swap. Council land is labelled "Area B" on the plan attached to the sale and purchase conditions and GTC's land to be swapped with Council is labelled "Area A". At the workshop Councillors expressed more interest in selling part of the Spur to GTC than having a land swap. The Councillors also seemed more interested in selling part of the Spur than swapping the land. GTC have been informed of this and I believe GTC have also been informed that this would be officers' recommendation to the Council.

The valuations came back with the Council land being worth \$3M as at 20 December 2020 and Area A at \$1.8M as at 20 December 2020. GTC have been informed that if they wished to purchase only part of the Spur the price will need to be arrived at by a separate valuation rather than using the per hectare rates in the valuation. The reason behind this is that the part of the Spur that GTC would be interested in buying is the most valuable because:

- It is already zoned for residential development.
- Recent changes mean that the current lot sizes could be reduced.
- Topographically it is the most likely to be able to be developed.
- It is unlikely to have significant natural areas on it.
- Access is likely to be easier to this part

The Council has also stated that it will contribute 50% of the surveying costs to enable the land that GTC wish to purchase to be subdivided from the rest of the Spur. I note that in my

email of 30 March I said 50 % of subdivision costs, I think this was a mistake.

Background is that another developer would be interested in purchasing the Spur, however, officers see problems with this because the other developer is likely to develop the Spur with much less regard for the natural environment. This is an important consideration for the Council because there is substantial community resistance to the Spur being developed. The resistance can be divided into three main categories:

1. Environmentalists, including Forest & Bird, who are anxious to preserve the land as a natural corridor for fauna. The Spur has regenerating bush and creates the narrowest part of the valley so it is seen as a natural resting place for birds.
2. Silverstream Railway, a group of steam engine enthusiasts, who are concerned about houses too close to their railway track due to the risk of fire and also noise complaints.
3. Concern by Steven Pattinson that development over the GTC land will create flooding hazards for the residents of Pinehaven. He is stirring up trouble over any proposed sale to GTC.

By selling only part of the Spur the Council will be able to retain the balance of the land as a reserve and further develop this natural environment on the Spur. The proceeds of sale will provide a fund to start this and as a result, some of the resistance to a sale will be satisfied. In addition, the area that would be sold to be developed would be far enough away from the Silverstream Railway that the Silverstream Railway Society would be unlikely to be concerned about the sale. On the other hand, Mr Pattinson of Save Our Hills is not likely to be satisfied but it is unlikely he will have as much influence once Silverstream Railway and Forest & Bird are satisfied.

The driver for Council is the provision of land for housing. From an overview perspective my view is that contract terms and conditions should, as much as is realistic, ensure that there are some requirements relating to a subdivision of the area. There is no wish to be draconian about this, however, my thinking is that commercially reasonable conditions should be considered e.g. to require appropriate consents to be obtained and implemented within a certain period of time. Behind all this is the Council's Plan Change 50, which is a plan to deal with residential development across the Council District which will include GTC's land, that is currently not zoned for residential development. Therefore, my thinking is there should be conditions requiring GTC to develop the land within a reasonable timeframe after the Plan Change has been completed.

As discussed, the likely cost of the subdivision is to be in the hundreds of millions and GTC is a private company. GTC have told officers that acquiring the Spur land is important for the company to be in a position to finance any development. Considering the huge capital investment required of GTC I wonder if there should be some sort of condition that GTC satisfies the Council that it will be in a commercial position to start developing the land. My main concern is that there is reputational risk to the Council that, if the Council swaps the land with GTC and GTC falls over, it will look like the Council has not done due diligence in selling the land. However, the importance of this is also linked to the importance of acquiring the land for housing. Due to the changes in the Government's approach to housing, it is possible that the need for land for housing has reduced since 2016. At this stage it is difficult to determine exactly what the Council's position is in relation to availability of housing land because projections have not yet been locked in.



As I mentioned to you, GTC have not suggested any conditions at this stage that they would want to include in a sale and purchase agreement, however, I guess that will happen eventually and it will be a matter of you reviewing those conditions when we receive them.

I think this brings you up to date but if you need any information or have any questions before we meet please contact me.

Andrea Hilton

Kaitohutohu Mātāmua ā-Ture | General Counsel

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**Te Kaunihera o Te Awa Kairangi ki Uta | Upper Hutt City Council**

838 – 842 Fergusson Drive, Private Bag 907, Upper Hutt 5140, New Zealand

Tau Waea: +64 4 527 2147 | Waea: +64 4 527 2169

Īmēra: [andrea.hilton@uhcc.govt.nz](mailto:andrea.hilton@uhcc.govt.nz) | Pae Tukutuku: [www.upperhuttcity.com](http://www.upperhuttcity.com)

Pukamata: [www.fb.com/UpperHuttCityCouncil](https://www.facebook.com/UpperHuttCityCouncil)

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**From:** [Brett Latimer](#) on behalf of [Brett Latimer <brett.latimer@uhcc.govt.nz>](mailto:brett.latimer@uhcc.govt.nz)  
**To:** S7(2)(a) LGOIMA 1987  
**Subject:** RE: Silverstream spur report  
**Date:** Tuesday, 7 April 2015 1:58:03 pm

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Great, thank you, I will look out for the invoice.

**From:** S7(2)(a) LGOIMA 1987  
**Sent:** Tuesday, 7 April 2015 1:51 p.m.  
**To:** Brett Latimer  
**Subject:** RE: Silverstream spur report

Hi Brett

Attached is the final version - only change made was the removal of "draft".

Many thanks again for engaging us to undertake this piece of work. I've asked our Business Support team to issue the invoice, so that should be out to you by the end of the week.

Regards, S7(2)(a) LGO

**From:** Brett Latimer [<mailto:brett.latimer@uhcc.govt.nz>]  
**Sent:** Tuesday, 7 April 2015 1:38 p.m.  
**To:** S7(2)(a) LGOIMA 1987  
**Subject:** RE: Silverstream spur report

Thanks for the report S7(2)(a) LGO, I have had a read and it appears to have covered everything. The conclusion is what we expected, so send the final through and I will arrange for payment.

**From:** S7(2)(a) LGOIMA 1987  
**Sent:** Thursday, 2 April 2015 7:32 p.m.  
**To:** Brett Latimer  
**Subject:** Silverstream spur report

Hi Brett

Attached is a draft version of the Silverstream Spur report for you review. I will issue it as a final after you have had a chance to read and provide any comments.

Regards, S7(2)(a) LGO

[BML Logo]<<http://www.boffamiskell.co.nz/>>

S7(2)(a) LGOIMA 1987 | Principal | Senior Ecologist

email: S7(2)(a) LGOIMA 1987  
S7(2)(a) LGOIMA 1987

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**From:** [Lachlan Wallach <Lachlan.Wallach@uhcc.govt.nz>](mailto:Lachlan.Wallach@uhcc.govt.nz)  
**To:** [Brett Latimer](#)  
**Subject:** RE: Silverstream Reserve - Ecological Assessment  
**Date:** Wednesday, 4 March 2015 2:43:15 pm

---

Ok go with their advice but tell Beca reason not going with theirs is because our planners already have a firm working on similar topic but equally make sure that we do not get pulled in to a bigger picture. Remember we just want sufficient information to justify the sale of Silverstream Spur, I don't want another sculpture camel

Lachlan Wallach  
Director Asset Management and Operations

UPPER HUTT CITY COUNCIL  
Civic Administration Building, 838-842 Fergusson Drive  
Private Bag 907, Upper Hutt 5140

DDI: 04 527 2136 | Fax: 04 528 2652 | Mobile: 027 442 8912  
[lachlan.wallach@uhcc.govt.nz](mailto:lachlan.wallach@uhcc.govt.nz) | [www.upperhuttcity.com](http://www.upperhuttcity.com)

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From: Brett Latimer  
Sent: Wednesday, 4 March 2015 2:39 p.m.  
To: Lachlan Wallach  
Subject: FW: Silverstream Reserve - Ecological Assessment

It appears the planners seem to think the price is high and we could do better by going to Boffa Miskel.

From: Nicola Etheridge  
Sent: Wednesday, 4 March 2015 2:34 p.m.  
To: Brett Latimer  
Subject: FW: Silverstream Reserve - Ecological Assessment

Hi Brett

Your request to Andrea re advice about cost found me for two reasons, one in my past life I was an ecologist consultant and two we've been dealing with similar ecological work as part of a plan change. As Matt said which I support the quote is too expensive for what it is. It should be more like 6k worth of work.

I think you could save even more by using Boffa Miskel as they have done ecological work in the same area and are currently engaged by us to do some tree work. That also means there would be alignment. If you want me to get a quote from them I can do that, just let me know.

Cheers  
Nic

Nic Etheridge  
Policy Planning Manager

Upper Hutt City Council | 838-842 Fergusson Drive, Private Bag 907, Upper Hutt 5140, New Zealand  
D: +64 4 527 2137 | M: +64 27 5251630 | T: +64 4 527 2169 | F: +64 4 528 2652 | E: [Nicola.etheridge@uhcc.govt.nz](mailto:Nicola.etheridge@uhcc.govt.nz) | [mailto:Nicola.etheridge@uhcc.govt.nz](mailto:mailto:Nicola.etheridge@uhcc.govt.nz)  
W: [upperhuttcity.com](http://www.upperhuttcity.com)

From: Matt O'Neil  
Sent: Monday, 2 March 2015 8:34 a.m.  
To: Nicola Etheridge  
Subject: FW: Silverstream Reserve - Ecological Assessment

Been asked for input on this - can we discuss. Seems like it needs to correspond with current trees work - especially assessment criteria (although the result does is broader than just trees).

Thanks

Matt O'Neil  
Planner (Policy)

Upper Hutt City Council | 838-842 Fergusson Drive, Private Bag 907, Upper Hutt 5140, New Zealand  
D: +64 4 527 2175 | T: +64 4 527 2169 | E: [matt.oneil@uhcc.govt.nz](mailto:matt.oneil@uhcc.govt.nz) | [mailto:matt.oneil@uhcc.govt.nz](mailto:mailto:matt.oneil@uhcc.govt.nz) | W: [www.upperhuttcity.com](http://www.upperhuttcity.com) | <http://www.upperhuttcity.com> | F: [www.fb.com/upperhuttcitycouncil](http://www.fb.com/upperhuttcitycouncil) | <http://www.fb.com/upperhuttcitycouncil>

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From: Andrea Millar  
Sent: Monday, 2 March 2015 8:19 a.m.  
To: Matt O'Neil  
Subject: FW: Silverstream Reserve - Ecological Assessment

From: Brett Latimer  
Sent: Friday, 27 February 2015 3:53 p.m.



To: Andrea Millar  
Subject: FW: Silverstream Reserve - Ecological Assessment

Hi Andrea I was wondering if you could give me your opinion on the cost to carry out this assessment. The total cost is quoted at \$10,480 and if you read the proposal you will see what they are intending to do. Initially I thought it was high but it could be the sort average sort of cost for that kind of survey . If you could let me know it would be appreciated as I would like to kick this off ASAP.

From: S7(2)(a) LGOIMA 1987  
Sent: Friday, 27 February 2015 3:17 p.m.  
To: Brett Latimer  
Subject: Silverstream Reserve - Ecological Assessment

Hi Brett, thank you for the opportunity to present our proposal for the Silverstream Reserve Ecological Assessment.

As discussed, we think that this high-level approach focused on habitat assessment and mapping, supported by field sampling/ observations for flora and field observations for fauna will provide the level of detail required

Please contact me should you wish to discuss our proposal further.

We look forward to your instruction to proceed soon.

S7(2)(a) LGOIMA 1987  
Manager - Wellington Environments  
Beca

S7(2)(a) LGOIMA 1987

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