

**Hearing for Upper Hutt City Council Plan Changes PC49 “Open Space” and PC49 Variation 1 “Silverstream Spur”.**

**Save Our Hills (Upper Hutt) Incorporated**

Submitter S14 (PC49), S91 (PC49 V1) and Further Submitter FS14 (PC49), FS10 (PC49 V1)

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**Contents:**

1. Introduction
2. The public not consulted about change of zoning on Silverstream Spur to Residential
3. Southern Growth Area is not needed, and the public does not want a road through the Spur but does want access for scenic walks and the enjoyment of nature
4. The transport corridor and Southern Growth Area are a serious threat to Pinehaven as long as the fatally flawed Pinehaven baseline flood model remains unrectified
5. Conclusion

**1. Introduction**

- 1.1 Thank you for this opportunity to speak to Plan Change 49 and Plan Change 49 Variation 1 about Open Space, and more particularly about the Silverstream Spur.
- 1.2 SOH applauds the s42A report’s recommendation to zone the Spur as a Natural Open Space Zone (NOSZ) in response to the many submissions requesting this. Given that SOH considers the current Residential zoning on the Spur to be invalid (I’ll explain the reasons why soon), re-zoning the Spur now as NOSZ is a good way of fixing the invalid zoning.
- 1.3 SOH is appalled, however, at the s42A report’s recommendation to reject all the submissions opposing a road through the Spur, just because Council deems a road through the Spur as necessary. The road through the Spur is clearly not wanted by an overwhelming majority of submitters and it behoves the Panel to respect and accept the shared view of this vocal majority over and against the view of the 3 submitters wanting the enabling of the road and infrastructure through the Spur, the sole justification they are offering being that it is required for opening up urban development on the SGA, development which is no longer needed - I’ll comment on this later.
- 1.4 The proposal to enable a road and infrastructure through the Spur poses a massive threat to the safety and wellbeing of Pinehaven residents and harm to the Pinehaven environment as long as the fatally flawed Pinehaven flood modelling remains unrectified. I’ll be elaborating on this in detail later.
- 1.5 The whole point being that it is clear from the overwhelming number of submissions that the public does not want a road corridor, or the enabling of a road corridor, through the Spur but rather to see the Spur regenerated with native trees and plants, and public access provided for walking and recreation, and the enjoyment of the magnificent views of the Hutt River and upper valley in the beautiful natural setting rich and bird and plant life which the Spur offers.

## 2. The public not consulted about change of zoning on Silverstream Spur to Residential

2.1 In their Further Submission FS12 on PC49 Variation 1, The Guildford Timber Company Ltd (GTC) stated that *“the operative zoning [on Silverstream Spur] is more appropriate and fit for purpose”* than the proposed Natural Open Space zoning.<sup>1</sup>

The ‘operative zoning’ is about half “Rural Hill” and half “General Residential”, currently with a Residential Conservation Precinct overlay.

2.2 In support of Silverstream Retreat’s submission, GTC stated: *“GTC supports that part of the submission that seeks to retain the operative zoning for the Silverstream Spur (a combination of General Residential and Rural Hill Blue Mountains zoning). The relief that GTC has sought in its primary submission (i.e., the withdrawal and comprehensive redrafting of the variation) would have an effect similar to that sought by the submitter in this case. i.e., the retention of the operative zoning.”*<sup>2</sup> Obviously, it suits GTC for the Spur to remain Residential because it is much easier to get consent for a road (and even housing) in a Residential zone than in a public reserve or proposed Natural Open Space zone.

2.3 But how and when did the Spur, which we understood was supposed to be public reserve, get zoned as Residential in the first place? SOH put this question to Council in an OIA request for information on 01 March 2021:

- SOH’s OIA Request: *“When did Council change the zoning of the Silverstream Spur from “Rural Town Belt” to “Rural Hill” and “Residential Conservation?”*
- UHCC’s OIA Response (20 April 2021): *“The zoning was changed in 1995 as part of the District Plan review adopted in that year.”*

2.4 It turns out that there was no review of the District Plan adopted in 1995. Despite numerous further OIA requests by SOH over the ensuing two and a half years, Council has not been able to provide a shred of evidence to show when or how the zoning on the Spur was legitimately changed from Rural Town Belt or Rural Hill to a Residential zone. Nor has Council produced any evidence that the public was consulted on the plan change to Residential. SOH has concluded that the reason for this is because no consultation on the plan change to Residential on the Spur ever took place. In fact, all the evidence uncovered to date clearly shows that the Spur was intended to be vested in its entirety as a scenic reserve for the public, therefore we regard the current Residential zoning on Silverstream Spur to be invalid.

2.5 Advice by Buddle Findlay [BF] to Council on this matter<sup>3</sup> notes that in addition to an intention by Council to designate Silverstream Spur as a legal reserve, the historical record also notes that a Council memorandum prior to purchasing the Spur records that *“part of the land may have potential for development as residential sections although a change of zoning would be required before any such development could proceed.”* [BF, paras. 4(b), 15]

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<sup>1</sup> FS12 GTC on PC49 V1 - S74.2 - Royal Forest and Bird Protection Society Inc (Forest and Bird) - Amelia Geary

<sup>2</sup> FS12 GTC on PC49 V1 - S18.1 – Silverstream Retreat – John Ross

<sup>3</sup> Buddle Findlay letter to Guy Smith, UHCC, 13 April 2022 - Silverstream Spur - legal implications of potential historical acts or omissions by Council

- 2.6 The fact that a plan change would be required for changing the zoning of the Spur is confirmed by Buddle Findlay [BF]:

*"A change to the zoning of the Spur requires a change to the District Plan. The RMA sets out a specific process to do this, including notification of the change, the opportunity for public submissions, hearings, and public notification of the decision. As such, notification of the Council's intention to change the plan, or a resolution to that effect, are not sufficient to initiate a plan change." (pre-1984, see Para. 32) A later resolution (2001) records that "in the light of the Council's original rationale for purchasing the Spur, a Variation to the District Plan be undertaken to rezone the land as "Open Space" and that it be managed as a reserve, with public access as of right". (BF, para. 23)*

- 2.7 Buddle Findlay's advice to Council focusses of the issue of the Spur being made a reserve. It does not address the issue of how the zoning of the Spur was changed from 'Rural Town Belt' to a 'Residential' zone. This required a publicly notified plan change, however, the facts indicate that no such plan change ever occurred – the zone change to 'Residential' just slipped through the system contrary to Council's publicly stated commitment to correct the zoning of the Spur *"to 'Rural B' (restricted) and record its designation as R7 (Scenic Reserve)."*

- 2.8 The facts:

- a) *"It appears the Council purchased the Spur in 1989. At this time, it was zoned Rural Town Belt. On 19 March 1990, a new title to the Spur was issued to the Council. The land was then subdivided, with some of the land being transferred to the Railway and the title to the remainder being reissued as Part Section 1 SO 34755." [BF. Para. 17]*
- b) 'Rural Town Belt' meant that the Spur was part of the city's 'green belt', as noted in the City Planner's Memorandum to The Mayor, Chief Executive and City Solicitor dated 25 February 1992 where he refers to the Spur as "ex: Hutt County Green Belt".
- c) *"At this time, the Upper Hutt District was governed by the District Scheme, developed under the Town and Country Planning Act 1977 (TCPA). On 1 October 1991, when the RMA came into force, the District Scheme was deemed a district plan and the ongoing reviews of the District Scheme that had been notified before that date (including one known as Review No. 4) were deemed to be proposed plan changes (under section 373 of the RMA)." [BF, para. 18]*
- d) Council publicly notified a District Scheme Review (No.4) in the Upper Hutt Leader on 24 September 1991. ). A Planning Map in that review (Urban Map No. 2) showed about 15.84ha of the Spur as "Rural Hill" zone and about 19.30ha of the Spur as Residential Conservation zone, the total area of the Spur being 35.14ha. Submissions closed 14 January 1992.
- e) An adjacent landowner south of the Spur, Mr W. S. Wyatt, made a late submission on 21 February 1992 strongly objecting to the Residential Conservation zoning on the Spur, expressing surprise that as the developer of the adjacent Sylvan Way subdivision in progress at the time he had not been served individual notification of the proposed zone change on the Spur.

- f) The City Planner responded to Mr Wyatt in a letter dated 25 February 1992 acknowledging that the Residential Conservation zoning “*of the land to the north of your subdivision*” was an error and that it would be altered, expressing appreciation to Mr Wyatt for bringing the matter to Council’s attention.
- g) The City Planner then wrote a memo to the Mayor, Chief Executive and City Solicitor pointing out this error in the zoning of the Spur on Urban Map No. 2, stating that it would be corrected to show the Spur “designated” as “Scenic Reserve”. He wrote, quote:

*“Two errors were found on Zoning Map 2 by Mr Warwick Wyatt ... [including] ...*

*i) The ex: Hutt County Green Belt area bounded yellow on the attached map should be designated (R7) Scenic Reserve and not Residential Conservation.”*

- h) Buddle Findlay comment, “*The land referred to appears to be the Spur (or part of it), although the correspondence is not clear.*” The correspondence is clear enough! For one thing, there was no other land on Zoning Map 2 north of Mr Wyatt’s subdivision zoned Residential Conservation besides the Spur. Furthermore, the map provided to the Mayor, Chief Executive and City Solicitor by the City Planner highlighted the Spur, and even after 30 years the highlighting, although faint, is still discernible. Also, Jason Durry of Silver Stream Railway has recently spoken with Mr Wyatt and he has made it clear to Mr Durry that the land he referred to in his submission was indeed the Spur.
- i) The City Solicitor then wrote a formal letter dated 03 March 1992 to Wellington Regional Council, Hutt City Council, Kapiti Coast District Council, Porirua City Council, South Wairarapa District Council, the Minister for the Environment, the Department of Conservation, the Hutt Valley Energy Board, the Wellington District Maori Council, Transit New Zealand and Orongamai Marae providing them with a copy of the public notification of Review No. 4 which contained a summary of alterations proposed by submissions or objections. Included in the summary of alterations is the correction to the zoning on the Spur:

*Requests for Alterations to Planning Maps: ...*

*11. The Upper Hutt City Council seeks the following alterations ...*

*Correct Map 2 as follows:*

*a) change zoning of land on northern side of Kiln Street [Silverstream Spur] from Residential Conservation to Rural B (restricted) and record its designation as R7 (Scenic Reserve).*

- j) Public notification of the Review No. 4 ‘Summary of alterations’ was published in the Upper Hutt Leader on 10 March 1992, being the Council’s summary of public objections and submissions on the District Scheme Review No.4. Council statement above about correcting the zoning of the Spur to “*change zoning of land on northern side of Kiln Street [Silverstream Spur] from Residential Conservation to Rural B (restricted) and record its designation as R7 (Scenic Reserve)*” is on p36 of this edition of the Leader.

- k) 13 April 1992 - Close off date for supporting or opposing submissions: *“Persons or Bodies affected by Proposed District Scheme (Review No. 4) ... may give notice to Council of support or opposition to any of the submissions or objections received. Notices of support or opposition must be ... received by the Council no later than ... 13 April 1992.”* [Upper Hutt Leader, 10 March 1992 Public Notification]
- l) Hearings by UHCC Judicial Committee of submitters were held on 9 separate days between 28 May 1992 (Day 1) and 17 July 1992 (Day 9). The Hearing date for Council’s submission (Objection 15) was Day 1, 28 May 1992, under Agenda Item 8, which included Map amendments: *“The Upper Hutt City Council propose a number of map amendments. These essentially make corrections to errors so far discovered within the maps.”* Senior Planning Officer’s Memorandum to the Chief Executive dated 19 May 1992, titled “Objection to Proposed District Plan Review No. 4]
- m) No objections to *“change zoning of land on northern side of Kiln Street [Silverstream Spur] from Residential Conservation to Rural B (restricted) and record its designation as R7 (Scenic Reserve)”* were received by Council.
- n) The Judicial Committee report of the Hearing followed its meeting on 17 July 1992 titled, ‘The REPORT of a MEETING of the JUDICIAL COMMITTEE held on FRIDAY 17 JULY 1992’. The record for Day 1 (Thursday 28 May 1992) Agenda Item 8 – ‘OBJECTION TO PROPOSED DISTRICT SCHEME (REVIEW NO. 4) – UPPER HUTT CITY COUNCIL’, states that Council received only 4 cross-submissions, none of which relate to Council’s proposal to correct the zoning on the Spur *“from Residential Conservation to Rural B (restricted) and record its designation as R7 (Scenic Reserve)”*.
- o) It can be inferred, therefore, that Council’s proposal to correct the zoning on the Spur *“from Residential Conservation to Rural B (restricted) and record its designation as R7 (Scenic Reserve)”* went through the hearing unopposed, given also another of the Senior Planning Officer’s Memorandum 19 May 1992 to the Chief Executive stating that: *“It is not seen to be necessary to prepare reports on each and every aspect of the Council’s objection, as many comprise adjustments in response to the Resource Management Act provisions or simple corrections. However, separate reports will be prepared (and follow) for those aspects of the Council’s objection which have attracted cross submissions.”*
- p) The Judicial Committee’s recommendation regarding Council’s Requests for Alterations to District Scheme Review No. 4 (Objections 14 & 15) is recorded as follows:

*THAT pursuant to Section 48 of the Town and Country Planning Act 1977, Council resolve to allow Objection No.14 and Objection No.15 except for Serial Nos.15, 17, 55 and 58 which were dealt with in the preceding recommendations 3, 4 and 5 and Serial No. 123 which was included in error and has been withdrawn by the Objector and Serial No.58 which was heard separately as Item 49.*

*Reason:*

*1. Many of the changes sought by the Council are required only to correct errors found in the document. The balance of the changes which were sought are reasonable and are largely supported by other objectors and cross-objectors.*

- q) The proposed map correction for the Spur was not related to any of the Serial Nos. identified in the recommendations, and the Judicial Committee's recommendations were approved and adopted by Council on 18 August 1992.
  - r) Variations 1 – 9 to the District Scheme Review No. 4 were publicly notified in the Upper Hutt leader on 16 August 1993. None of these Variations related to the Silverstream Spur.
  - s) Council resolved to approve the District Scheme (Review No. 4) on 27 July 1994, including Variations 1-5 and 7-9. [Variation 6, regarding the re-zoning of some land at 65 John Street, was subject to appeals.] The public was notified of Council's approval of District Scheme (Review No. 4) in the Leader on 8 August 1994, and the plan change took effect on 31 August 1994 as the Transitional District Scheme (Review No.4).
  - t) On 31 August 1994, the Transitional District Scheme Map 2 still showed the "Residential Conservation" zone on the Spur. It had not been corrected.
- 2.9 In a telephone conversation with Guy Smith, UHCC General Counsel, on 20 April 2023, I raised the issue of the "Residential Conservation" zone error on the Spur not having been corrected in the version of the District Scheme that adopted on 31 August 1994. Mr Smith suggested that maybe it was only the planning officers who thought the Residential zoning was incorrect, and that sometime between 1992 and 1994 the Council itself may have decided to change the zoning to Residential and that was how it was endorsed.
- 2.10 However, because the 'Residential Conservation' zoning had received an objection from Mr Wyatt already been publicly and officially acknowledged by Council as an error, and because the correction to make the Spur "*Rural B (restricted) and record its designation as R7 (Scenic Reserve)*" had already been through a publicly notified cross-submission process and received no objections, such an act by Council to reverse the correction would be highly questionable. The proper process would be a publicly notified Variation, same as for the Variations 1-9 that were publicly notified in 1993. There is no evidence of such a Variation process for zoning the Spur as 'Residential Conservation' ever occurring.
- 2.11 District Scheme (Review No.4) was processed under the Town and Country Planning Act 1977. Under the Act the Council was required to publicly notify a 'Statement of Council's proposals in respect of the review' [T&CP Act 1977 Amendment 1983 s61]. This was to be done "*not later than 1 year before its district scheme is due for review*". Council publicly notified its pre-review 'Statement of Planning Proposals' was on pp17-19 in the Upper Hutt Leader, October 2, 1990.
- 2.12 There is nothing in the 'Statement of Planning Proposals' advising the public of Council's intention to change the zoning of over half of the Spur from 'Rural Town Belt' (i.e. Green Belt) to 'Residential Conservation'.
- 2.13 The 'Statement of Council's proposals' included a "*discussion draft of a review of residential planning for the whole City. This 'review' involved public submissions and discussions, and a study by a Council 'Task Force'. This document should be read as part of the Council's planning proposals for the Review.*" (quote from public notification in UH Leader, October 2, 1990, p18). In response to SOH's OIA requests, Council has provided no evidence of any reference to a

proposal to change the zoning of the Silverstream Spur to Residential in any pre-review 'discussion draft' or 'Task Force' study document.

- 2.14 According to the Leader (October 2, 1990, p5) the pre-review would include public meetings and/or discussions with special interest or community groups held by Council. In response to SOH's OIA requests, Council has provided no evidence of any public meetings or discussion groups regarding any proposal to change the zoning of the Silverstream Spur to Residential.
- 2.15 Although the District Scheme (Review No. 4) Map 2 publicly notified on 24 September 1991 showed over half the Spur zoned as 'Residential Conservation', there was nothing in the 'Scheme Statement' or 'Statement of Purposes, Objectives and Policies', or 'Code of Ordinances' in the Proposed District Scheme (Review No.4) mentioning anything about any proposal to change the zoning on the Spur from Green Belt to Residential Conservation.
- 2.16 As noted above, when Mr Wyatt objected to Council about the Residential Conservation zoning on the Spur, Council publicly and officially acknowledge it as an error that would be corrected. The proposed correction was publicly notified, unopposed, and accepted in the Judicial Committee's recommendations, but not carried through by Council.
- 2.17 In response to SOH's OIA requests, Council has provided no evidence of any publicly notified plan change that followed due process for creating the 'Residential Conservation' zone on the Silverstream Spur.
- 2.18 After two years of SOH's initial OIA request to Council on 01 March 2021 about when it was that the zoning on the Spur was changed to 'Residential Conservation' (paras. 2.3 & 2.4 above) and numerous follow-up requests as all the above information progressively came to light, UHCC's General Counsel, Guy Smith, conceded in an email to me on 19 April 2023 that he agreed the OIA response from Council to SOH on 20 April 2021 was incorrect:

*"I agree with you, that what we previously told you – that the change to the Spur zoning happened in the 1995 District Plan process – seems to be wrong and that the current zoning was first applied in 1994, as the maps you attached illustrated. ... Also just confirming again that we have not been able to locate any documents about an amendment to the 1995 DP." – Guy Smith, UHCC General Counsel, 19 April 2023*

- 2.19 Another document that Council was never able to locate in response to SOH OIA request on 15 Nov 2021, which we reminded Council about in our submission on PC49 Variation 1 on 04 Nov 2022, was the City Planner's Report to the Judicial Committee that presided over the Hearing for the District Scheme Review No. 4. We wanted this document in order to see whether or not the City Planner mentioned anything about the proposed correction of the zoning error on the Spur in the report he provided to the Judicial Committee. However, as explained in paras. 2.8 l) to q) above, Council only prepared reports for the Hearing about items for which Council had received cross-submissions. No cross-submissions were received objecting to Council's proposal to correct the Spur zoning error on Map 2 *"from Residential Conservation to Rural B (restricted) and record its designation as R7 (Scenic Reserve)"*.

The Map corrections were regarded as *"simple corrections"* not deemed necessary to report on individually, and were endorsed by the Judicial Committee who record that *"Many of the changes sought by the Council are required only to correct errors found in the document"*, which would have included the correction to the Spur zoning error on Map 2 *"from Residential Conservation to Rural B (restricted) and record its designation as R7 (Scenic Reserve)"*.

- 2.20 Following Council’s approval of the Judicial Committee’s recommendations on 27 July 1994, Council never actioned its decision to correct the erroneous zoning on the Spur on Map 2 “*from Residential Conservation to Rural B (restricted) and record its designation as R7 (Scenic Reserve)*” in the final version of the Transitional District Scheme Review No. 4 that took effect on 31 August 1994. Whatever the reason for this oversight, it is clear that no publicly notified plan change process was ever carried out for changing the zoning on the Spur from ‘Rural Town Belt’ to a Residential zone.

Therefore, SOH regards the erroneous Residential Conservation zoning appearing on the Spur today as ‘General Residential’ with a ‘Residential Conservation Precinct’ overlay on Council’s Urban Planning Maps 39 and 40 as invalid, and requests that the Hearing Panel places no weight on claims by GTC that “*the operative zoning is more appropriate and fit for purpose*” than the proposed Natural Open Space zoning, and no weight on any attempt by GTC to use the erroneous Residential zoning as justification for a transport corridor through the Spur.

- 2.21 Given that the record shows no evidence of Council having ever consulted the public about changing the zoning of Silverstream Spur from ‘Rural Town Belt’ (Green Belt) to Residential Conservation, and, given the overwhelming support by PC49 and PC49 Variation 1 submitters for the Spur to be zoned Natural Open Space, SOH requests that the Hearing panel now recommend the rezoning of the Silverstream Spur to Natural Open Space.
- 2.22 SOH also asks the Hearing Panel to consider recommending that Council complete the process of getting the Silverstream Spur registered as a legal scenic reserve. As we understand it, there are five steps in this process:
1. Council may by resolution declare the Silverstream Spur to become a scenic reserve;
  2. Before such resolution is passed, Council must publicly notify in a newspaper circulating in the district its intention to invest Silverstream Spur as a Reserve and call for objections in writing;
  3. At the close of the 1 month consultation period Council must consider all such objections received within that period;
  4. The resolution, once passed, must be forwarded by Council to the Commissioner for transmission to the Minister of Conservation, who has the discretion to decide either to cause the resolution to be gazetted or to refuse to do so;
  5. The resolution comes into effect when it is gazetted.

Consider the following:

1. The Council resolved to declare the Silverstream Spur a scenic reserve when the City Planner, Mayor, Chief Executive and City Solicitor agreed to include in Council’s submission to District Scheme (Review No. 4) by way of correction to Planning Map 2 to change the zoning on the Spur “*from Residential Conservation to Rural B (restricted) and record its designation as R7 (Scenic Reserve)*” and on 3/3/92 notified Wellington Regional Council, Hutt City Council, Kapiti Coast District Council, Porirua City Council, South Wairarapa District Council, the Minister for the Environment, the Department of Conservation, the Hutt Valley Energy Board, the Wellington District Maori Council, Transit New Zealand and Orongamai Marae of this proposal;
2. The proposal to change the zoning on the Spur “*from Residential Conservation to Rural B (restricted) and record its designation as R7 (Scenic Reserve)*” was publicly notified in the Upper Hutt Leader on 10 March 1992, calling for objections in writing to be received by Council by 13 April 1992;



3. Only 4 objections to Council’s overall submission were received, none of which related to the Spur, i.e. no objections to change the zoning on the Spur “*from Residential Conservation to Rural B (restricted) and record its designation as R7 (Scenic Reserve)*” were received by Council [see 2.8 m) and n) above]. The proposal was heard and passed by the Judicial Committee who made a recommendation that “*Council resolve to allow*” certain proposals in in Council’s overall submission, including the proposal to change the Spur zoning “*from Residential Conservation to Rural B (restricted) and record its designation as R7 (Scenic Reserve)*”. This was approved and adopted by Council on 18 August 1992 [see 2.8 p) and q) above]. The large number of submitters still requesting this in their submissions on PC49 and PC49 V1 provides strong indication that the public still wants Council to do this;
4. All that remains to be done now is for Council to forward this resolution to the Commissioner for consideration by the Minister of Conservation for gazetting;
5. The Minister’s favourable decision would see the Spur gazetted as a scenic reserve.

It would save a lot of expense if the above record was recognised and acted on now, sparing yet another round of consultation, and paving the way for opening up the Spur for public access and enjoyment as a scenic reserve. SOH requests that the Hearing Panel make a favourable recommendation on this issue to stimulate the action necessary to make the Spur a legal scenic reserve.

**3. The Southern Growth Area is not needed and the enabling of a road through the Spur is not wanted: What the public does want is access for scenic walks and the enjoyment of nature**

- 3.1 It concerned many residents, as evidenced by submissions, that the Silverstream Spur is not accessible to the public. It has wonderful potential for public recreation and enjoyment but has no obvious point of entry or public walking tracks.
- 3.2 72 Submitters to PC49V1 want the Spur zoned as Natural Open Space, with no road through the Spur. 24 Further Submitters supported this, 5 of whom were new submitters. That is 77 submitters requesting that there be no road (or enabling of a road/transport corridor and infrastructure) through the Spur, vs 3 submitters supporting the road proposal, with none of the Further Submitters supporting any of these three.
- 3.3 SOH is appalled at the s42A report’s recommendations to reject all 77 submissions not wanting the road, in favour of accepting the 3 submissions that do want it! How is this democratic?
- 3.4 GTC’s legal expert says, “*the RMA is not a numbers game,<sup>13</sup> and the Panel should not be overly concerned by the number of submitters opposing enabling an infrastructure corridor in Variation 1.*” Why should the Panel not be overly concerned? The expert’s attitude seems to be that because the Council deems the transport corridor and infrastructure necessary it doesn’t matter what the public think – just do it! What might the public to think of that? The Land Swap defeat might provide an indication to the Panel of the answer to that question.
- 3.5 Why does the Council deem the transport corridor and infrastructure necessary? There’s only one reason – to open up the Southern Growth Area for development by a private developer. This is the reason given in the s42A report, based on data from the 2022 Housing and Business Development Capacity Assessment (HBA) that 10,458 extra dwellings are needed over the next 30 years, and that the Southern Growth Area is identified in the Upper Hutt Land Use Strategy

and Wellington Regional Growth Framework as required for meeting that housing need. This argument is repeated by GTC's planning expert, also referencing the 2022 HBA report.

- 3.6 The Council and GTC planners in their November 2023 reports fail to acknowledge the recently released 2023 Housing and Business Development Capacity Assessment (HBA), Chapter 6 of which was approved by Council on 02 August 2023. The Council Minutes state:

*“MOVED - That Council:*

- (i) approves the Upper Hutt Chapter of the Wellington Region and Horowhenua Housing and Business Assessment (HBA) included as Attachment 1 to the report, and,*
- (ii) authorises officers to make any consequential amendments based on direction provided at this meeting and to correct any minor editorial, typographical, arithmetical, or formatting errors that are identified.”*

*MOTION CARRIED*

- 3.7 According to the 2023 HBA, there is a need to accommodate 7,931 dwellings (Ch. 1, Table 1.8) over the next 30 years. With the implementation of the National Policy Statement on Urban Development (NPS-UD) and the Medium Density Residential Standards (MDRS) in 2022, there is now more than enough capacity within our existing urban environments and along the public rail corridor to meet housing demand. Upper Hutt no longer requires a road through the Spur to open development meandering 7 kilometers along steep greenbelt ridgelines above Pinehaven, remote from the sustainable public electric rail transport corridor.
- 3.8 Furthermore, the Wellington Regional Leadership Committee's (WRLC) 'Future Development Strategy' (FDS) was released in September 2023 and will replace the outdated Wellington Regional Growth Framework (WRGF) referenced in the s42A report. Although the SGA was included in the WRGF, it is not required in the FDS.
- 3.9 The Intensification Planning Instrument (IPI) and MDRS have enabled higher density housing development along the rapid rail corridor, where infill housing will meet future housing need more sustainably. Ridgeline housing in the SGA, remote from the rapid rail corridor, is no longer required. SOH supports the removal of the SGA from the FDS, because we support intensification around public transport hubs as a much more sustainable option than rural sprawl for meeting future housing needs.
- 3.10 SOH requests that the Hearing Panel respect the expressed desires of the overwhelming number of submitters who want access to enjoy the Spur but do not want a road through the Spur by recommending that provisions for enabling a transport corridor and infrastructure through the Spur be removed and that suitable pedestrian access, walking tracks, signage, seats and picnic facilities be provided on the Spur for the public.
- 4.0 **The transport corridor and Southern Growth Area are a serious threat to Pinehaven as long as the fatally flawed Pinehaven baseline flood model remains unrectified**
- 4.1 GTC's planning expert, Michael Hall, has provided a splendid graphic image of the GTC land overlaid onto the Silverstream and Pinehaven hills (M W Hall, 17 Nov 2023, Fig. 1).
- 4.2 If you are familiar with the area you will see from this graphic that about half the Guildford land lies within the Pinehaven Stream catchment, from which the stormwater runoff from

proposed SGA development would run into Wyndham Road, Jocelyn Crescent, Pinehaven Road, and Elmslie and Forest Roads, and on down through the Pinehaven Reserve and into the main Pinehaven Stream along Blue Mountains and Whitemans Roads into Silverstream.

- 4.3 Michael Hall notes that the SGA has been planned since 2007. In 2007, GTC distributed a concept plan to Pinehaven residents titled, “Guildford, Pinehaven – A Masterplanned Approach to Creating a Vision”. In the bottom right-hand corner of the concept plan is the logo of the company who prepared the masterplan, SKM, who in 2008-2010 then prepared the Pinehaven Floodplain Management Plan for Greater Wellington Regional Council and Upper Hutt City Council. To SOH’s knowledge, this concept plan and a Guildford Growth Framework Strategy (2007) is the only information GTC has ever released to the public about its SGA development intentions.
- 4.4 Michael Hall [I will continue to cite his full name because later I will be mentioning Robert (Bob) Hall, SOH’s flood hydrology and hydraulic engineering expert), and the use of their respective full names will avoid any confusion as to which Mr Hall I am referring] mentions the Pinehaven Floodplain Management Plan (PFMP) in his expert planning evidence (para. 4.16). He mentions *“sensitivity scenarios of what would happen to the catchment if the development was no longer in forestry and a stormwater neutral development were implemented as outlined through the growth strategies”*, referring to the SGA.
- 4.5 Michael Hall notes this modelling was used to inform the PFMP and UHCC’s Plan Change 43. (We assume Michael Hall is referring to Plan Change 42: Mangaroa and Pinehaven Flood Hazard Extents.) He also refers to the stormwater infrastructure improvements to Pinehaven, i.e. the Pinehaven Streamworks Improvements currently in progress.
- 4.6 Michael Hall states that the “sensitivity scenarios” explored the impact of “stormwater neutral development” in the SGA. The claim of the sensitivity scenarios involving stormwater neutral development is unfounded and misleading. The development scenarios tested by the Greater Wellington Regional Council (GWRC) consultants, MWH (now Stantec) and SKM (now Jacobs) in 2008 – 2010 were not stormwater neutral. The scenarios tested the impact of unmitigated stormwater runoff on Pinehaven from anticipated SGA development. This important topic, raised by Michael Hall as relevant to the SGA and therefore to the enabling of a transport corridor through the Spur to open up the SGA for development, needs some clarification.
- 4.7 The “sensitivity scenarios” which Michael Hall mentions are referred to in SKM’s flood hazard study for Pinehaven (2010) as the “future case scenario”<sup>4</sup> and later similar scenarios (Development Scenarios 1 and 2) by Jacobs (2016)<sup>5</sup>.
- 4.8 SKM’s 2010 “sensitivity scenario” is the one I will focus on. The outcome of this scenario clearly reveals that the baseline Pinehaven flood model developed for the PFMP and to inform the Pinehaven Streamworks Improvements is fatally flawed.
- 4.9 As mentioned above (4.1, 4.2), Michael Hall’s graphic (Fig. 1) shows graphic that about half of the Guildford land lies within the Pinehaven Stream catchment. SKM’s 2010 “future case scenario” tested the impact on Pinehaven of unmitigated runoff from an assumed 1,665 lot development on the Guildford land on the hills within the Pinehaven Stream catchment. Each

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<sup>4</sup> SKM: “Pinehaven Stream Flood Hazard Assessment – Flood Hazard Investigation Report, Volumes 1 and 2, Revision E, 25 May 2010, pp 13-16, 31, 32

<sup>5</sup> Jacobs: “Memorandum - Pinehaven Developments Scenarios 1 and 2” - 23 June 2016

lot was assumed to be 750m<sup>2</sup> in area. The development was assumed to be located within 4 subcatchments – subcatchment I (which drains into Wyndham Road), subcatchment E (which drains into Wyndham Road and Jocelyn Crescent), subcatchment B (the largest subcatchment, which drains into the top of Pinehaven Road), and subcatchment C (which also drains into the top of Pinehaven Road). SKM don't say this in their report, but the product of 1,665 x 750m<sup>2</sup> equals almost the entire area of these 4 subcatchments, a physical impossibility owing to the extreme steepness of the majority of the land in these 4 subcatchments.

- 4.10 Another input that SKM assumed in the future case scenario was 40% connected impervious area. This means they assumed that, as a result of the development, 40% of the land would become impervious, increasing the amount of stormwater runoff compared to the current runoff from the heavily vegetated hills.
- 4.11 SOH concluded from SKM's input assumptions that the only achievable way of getting 1,665 dwellings onto subcatchments I, E, B and C is by medium density development along the ridge tops. This would roughly account for 40% of the area of these subcatchments and this medium density development area on the ridges would effectively be all impervious. So, although SKM do not say so, SOH concludes that the future case scenario that SKM tested was for medium density development along the ridgelines of the hills above Pinehaven.
- 4.12 The Auckland Council Water Sensitive Design Guide advises that:
- "In many conventional, urban developments, stormwater collects on impervious surfaces before 'runnin off' to kerbs, catchpits and pipes. ... a catchment containing 10-20% impervious surface generally experiences a two-fold increase in stormwater runoff volumes during a storm event; a 35-50% increase in impervious area will experience a three-fold increase in stormwater runoff; and a 74%+ area, a fivefold increase".*<sup>6</sup>
- 4.13 Based on the Auckland Design Guide, one should expect SKM's future development scenario, with 40% impervious area, to result in about a 300% increase in stormwater runoff volume. Instead, SKM / Jacobs reported about only 1% increase in unmitigated stormwater runoff volume, and concluded that the GTC development on the hills would not make existing flood extents in Pinehaven any worse than they already are. This is what Michael Hall seems to interpret as being "stormwater [hydraulic] neutrality", if so, then a complete misunderstanding of the concept.
- 4.14 When the Pinehaven flood modelling was released for public consultation in October 2014, SOH and others strongly questioned the outcome of SKM's future case scenario, and demanded an audit of the flood modelling, to specifically address two specific issues:
- i) how can replacing dense vegetation on the hills with large areas of impervious surface result in only 1% increase in unmitigated stormwater runoff volume?
- ii) how will the Pinehaven flood model be used for assessing any future GTC development on the hills in the Pinehaven Stream catchment for hydraulic neutrality?
- 4.15 In response to public demands, GWRC engaged Beca to carry out an audit of the flood model.<sup>7</sup>
- 4.16 In order to assist understanding of my comments later about the outcome of the Beca audit, I should first briefly explain the concept of 'rainfall loss'. Hydrology is basically the study of

<sup>6</sup> Auckland Council Water Sensitive Design Guide, GD04, 2015, pp32-33

<sup>7</sup> Beca: "Pinehaven Stream – Flood Mapping Audit" 13 July 2015

rainfall and runoff – how much rain falls on a catchment in a storm event (hence rain gauges) and how much runoff enters waterways as a result (hence stream gauges). The characteristics of a catchment plays a large role in determining the amount of runoff – a heavily vegetated catchment will experience less runoff than an impervious catchment covered with steel roofs, concrete driveways and footpaths and asphalt roads. ‘Rainfall loss’ refers to rain lost to such things as interception by trees, transpiration by vegetation, evaporation, and infiltration into the ground. All of these factors are likely to come significantly into play in a heavily vegetated area like the Pinehaven Stream catchment, the area of which is about 80% pine forest and bush. Such a catchment would have high rainfall losses and therefore less runoff than an impervious catchment which would have low rainfall losses and greater stormwater runoff.

- 4.17 A flood hazard extent study typically consists of two types of modelling, hydrological modelling, which analyses rainfall, rainfall losses related to the characteristics of the catchment, and the resulting stormwater runoff volumes. The results of the hydrology study are then fed into a hydraulic model which predicts where that runoff will flow on the terrain and any consequent flood extents, depths and velocities. In the Pinehaven study, MWH carried out the hydrology study (2008, revised 2009)<sup>8</sup> and SKM carried out the hydraulic study (2008 – 2010, see footnote 4).
- 4.18 The auditor investigated both the hydrological modelling by MWH and the hydraulic modelling by SKM. Our interest and focus here is in the hydrological modelling by MWH because that is where the fatally flawed modelling is most readily recognisable by lay people (although it results in totally unreliable hydraulic modelling which many lay people/submitters in 2014 and 2015 on the flood modelling recognised and strongly challenged, and for good reasons).
- 4.19 Regarding the hydrological modelling, the auditor questioned MWH as to why there was not the expected increase in unmitigated stormwater runoff from the 40% impervious areas introduced in the GTC development on the hills. MWH found the pre- and post- development hydrology models (the pre-development model being the baseline model of the existing situation for Pinehaven, and the post-development model being the model with the 1,665 new houses in it on the GTC land on the hills).
- 4.20 MWH’s response to the question of why the post-development model didn’t have any significant increase in stormwater runoff volume was because both models had the same ‘rainfall loss’ inputs, i.e. both the pre- development heavily vegetated (baseline) model and the post-development model (40% impervious surfaces of 1,665 dwellings and infrastructure) had the same rainfall losses.
- 4.21 The auditor demonstrated that he understood the implications of this because he responded to MWH by commenting that if both models had the same rainfall losses then the stormwater runoffs would be the same and therefore there would be no difference in flood volumes [and hence flood extents] between the two models. This is a very critical point that I want the Panel to be sure to understand because it is this issue of respective rainfall losses in the two models that clearly reveals the fatal flaw in and serious harmful consequences of the current baseline Pinehaven flood modelling that must, for the safety of Pinehaven, urgently be rectified.

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<sup>8</sup> MWH: “Greater Wellington Regional Council - Pinehaven Stream Flood Hydrology” 4 November 2008, revised 25 November 2009

4.22 Delving a bit further into the rainfall losses in the pre- and post-development models, MWH revealed to the auditor that:

- i) the pre-development model had 5mm initial loss and 2mm/hr continuing losses, and
- ii) the pre-development model had 5mm initial loss and 2mm/hr continuing losses.

Now think for a minute about what this means, it is very important to understand this. First of all, the concept of 'initial loss' (i.e. initial rainfall loss in a storm event). I mentioned above the usual ways that rainfall is 'lost' (4.16). These losses are typically treated as 'initial loss' and 'continuing or ongoing loss':

- an example of 'initial loss' is 'interception' – Bob Hall (SOH's flood hydrology and hydraulic engineering expert) informed us that former NZ Forestry Service carried out a study of how much rainfall is intercepted by pine forests and found that it is typically 25-30%, in some cases up to 50%. MWH used 5mm in the pre-development model;
- an example of 'continuing loss' is 'infiltration' – retired civil engineer, Alex Ross, under the guidance of Bob Hall, carried out single and double ring infiltration tests in the forested and bush clad Pinehaven hills (including on subcatchment B on the Guildford land where SKM assumed a significant amount of GTC development to be in the 'future case scenario' study) and founds consistent infiltration rates of 500 – 900mm/hr<sup>9</sup> MWH used 2mm/hr in the pre-development model;

4.23 It is important to realise that 5mm initial loss and 2mm/hr continuing loss are the losses one could typically expect of impervious surfaces like a supermarket car park area. These are certainly not appropriate inputs to represent a heavily vegetated catchment like Pinehaven with its exceptionally high infiltration rates on the forested hills!

4.24 In the post-development model, MWH used 5mm initial loss and 2mm/hr continuing loss, as would be expected for urban development with large impervious areas.

4.25 In short, MWH's 'future case scenario' hydrology modelling treated the existing baseline pre-development model as if the future GTC development was already in it. Consequently, when compared with the post-development model, the stormwater runoff volumes [and hence the flood extents in SKM's subsequent hydraulic modelling] are the same – there's no increase as a result of the GTC development on the hills. This is fatally flawed and misleading modelling, and the auditor should have realised and disclosed this. But what did he do instead? The audit report does not disclose this critical information to the public, the very information for which SOH and other demanded the audit in the first place (4.14). This critical and damning information has been withheld from the public.

4.26 Bob Hall thoroughly investigated the 2010 and 2016 'sensitivity scenarios' carried out and reviewed by MWH / SKM / Jacobs / Beca. Bob Hall's peer reviewed findings are that the GTC development scenarios, when carried out using inputs that are truly representative of the existing undeveloped and future developed catchment characteristic would result in

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<sup>9</sup> A. K. Ross - Report on Infiltration Tests carried out on the Pinehaven Stream Catchment During July 2019, including Appendix 1 and Appendix 2

increases of unmitigated stormwater runoff volumes in the range of 300-500%.<sup>10 11 12</sup>

This is in line with the stormwater runoff increases advised by Auckland Council (4.13).

4.27 In the 2015 Beca flood mapping audit, the auditor reported that MWH were not able to explain the lack of expected increase in post-development flood volume in the ‘future case scenario’ study. This is patently untrue, yet the audit report repeats this assertion 3 times (pp 9, 17 & 27), so it is clearly not a typo. The auditor then dismisses the outcome of the future case scenario as being of no material consequence, and reported that the flood model and flood maps are fit for purpose. However, the consequences of the seriously flawed flood modelling are not immaterial, they are dire! Following are some of the serious consequences that can be expected from large volumes of unmanaged stormwater runoff.

4.28 Firstly, Bob Hall warns that if the current Pinehaven baseline flood model is used for assessing future GTC development on the hills in the Pinehaven catchment then hydraulic neutrality will not happen:

*“The effect of overstating the pre-development storm runoff peak flows and volumes both in terms of their scale and likely frequency of occurrence has the effect of significantly diminishing and misrepresenting the actual scale of the changes that should be expected when development of this kind takes place. Any attempt to apply hydraulic neutrality procedures to this situation will clearly produce spurious results, **and hydraulic neutrality will not happen.**”<sup>13</sup>*

4.29 Secondly, there is potential risk to human life:

*“... [if there is] the formation and failure of debris dams during major storms then there can be very serious consequences ( viz. Blandswood Settlement incident, Peel Forest, South Canterbury January 1975, four lives lost ).”<sup>13</sup>*

Serious damage in the 1976 flood in Pinehaven resulted from debris dam formation and failure, fortunately in that event without any loss of life.

4.30 Thirdly, there will be increased slope instability, and erosion, incising and aggradation of the stream channels:

*“Typically stream beds incise and channel widths increase and, where channel degradation is limited by the strength of underlying soils / rock etc., lateral bank erosion becomes more pronounced. If these effects were to arise in the Pinehaven Stream’s upper reaches then both the erosion products and riparian vegetation destabilized by the lateral bank erosion will tend to accumulate in the upper reaches and be periodically swept out in subsequent rainstorms. ... These processes have the potential to destabilise slopes and result in an increase in the propensity for landslides. ... Singularly and together these responses ultimately will have significant deleterious effects in the lower flatter reaches of the catchment such as aggradation of stream beds and blocking of culvert entries.”<sup>13</sup>*

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<sup>10</sup> R J Hall & Assoc. – Report: Pinehaven Stream ARI 100 Hydrological Assessment, Various Development Scenarios, 05 November 2019 (peer reviewed by Macky Fluvial Consulting)

<sup>11</sup> R J Hall & Assoc. - RJ Hall & Assoc\_ADDENDUM A\_At-A-Site Evaluation of Appropriate CN Numbers\_2019-9-27 (peer reviewed by Macky Fluvial Consulting)

<sup>12</sup> GMacky - Review1911114-2

<sup>13</sup> R J Hall & Assoc. - 2020-12-02\_Bob Hall Memo-Summary of Pinehaven Hydrology, Hydraulic Neutrality and Stream Channel Upgrade\_FINAL

- 4.31 Finally, the likely loss of any gains from the expensive Pinehaven Streamworks Improvements:

*“Consequently, the increased sediment loading being deposited in the flatter downstream reaches of the stream channel may quickly remove any gains from the channel upgrade.”*

- 4.32 Other negative and harmful impacts caused by failure to manage large volumes of stormwater runoff due to hydraulic neutrality being unachievable when reliance is placed on a fatally flawed baseline flood model include damage to private and public property, falsely showing properties in flood zone when they actually are not and the consequent increases in insurance costs, loss of otherwise viable development opportunities, damage to ecosystems, sedimentation of waterways and degradation of water quality.

- 4.33 It is often asserted that the Pinehaven flood modelling was endorsed by the Environment Court who ruled that Council must adopt the Mangaroa and Pinehaven Flood Hazard Extents (PC42) into the District Plan.

Firstly, the Court did not order the adoption of the flood maps. I presented evidence of this at the IPI Hearing in May 2023. The consent order was an agreement reached between another appellant and the Court (not SOH) over a private matter to do with Mangaroa River – it had nothing to do with the Pinehaven Stream flood modelling.

Secondly, the Court did not settle the matter of the Pinehaven Stream flood modelling as claimed, for example, by the former Council CEO Peter Kelly:

*Kelly said rainwater runoff modelling for the Pinehaven stream catchment was settled by the Environment Court where all appeals were either resolved or withdrawn. Flood flow requirements were in place to mitigate risks caused by development.*<sup>14</sup>

The Court did not settle the matter. SOH’s withdrawal simply ended the appeal. The fatally flawed baseline flood modelling still remains, and until such time as it is rectified flood risks will inevitably fail to be fully and properly mitigated.

- 4.34 I presented all of this flood modelling evidence (and more) at the IPI Hearing in May this year because of its relevance to a certain ‘qualifying matter’ (flood hazard extents). All this evidence is available on the UHCC IPI webpage [Intensification Planning Instrument \(IPI\) UHCC \(upperhuttcity.com\)](https://www.upperhuttcity.com/Intensification-Planning-Instrument-(IPI)-UHCC) .

- 4.44 One of the IP Commissioners questioned the relevance of the flood modelling issue to the IPI and the scope of the Panels remit. I had to remind the Panel of Council’s obligations under following Objectives in particular of the NPSD-UD 2022:

*“Objective 1: New Zealand has well-functioning urban environments that enable all people and communities **to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future**”. [emphasis mine]*

*Objective 7: Local authorities **have robust and frequently updated information about their urban environments and use it to inform planning decisions**. [emphasis mine]*

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<sup>14</sup> Stuff News, “Council and developers change tack to open up land for 1500 houses, keep Silverstream Spur in public hands” - 29 September 2021



- 4.45 Similarly, I believe the flawed Pinehaven flood model issue is relevant to PC49 Variation 1 for the reason that a key proposal in this plan change is the enabling of a transport corridor and infrastructure through the Spur **to open up the SGA for urban development.**
- 4.46 In 2014, based on my qualifications and expertise in medium density housing<sup>15</sup>, I estimated the yield of the Guildford land in the SGA to be in the range of 2,000 – 3,000 lots, based on my analysis of the areas and descriptions of the different housing types in the GTC concept plan titled, “Guildford, Pinehaven – A Masterplanned Approach to Creating a Vision” (4.3). This estimate was challenged by many at the time as grossly overstating the potential yield. However, I believe my estimate has been justified by the HBA 2022 which records the potential yield of the SGA ranging from 1,960 to 2,857 lots <sup>16</sup>
- 4.47 About half of this potential development (1,500 – 1,600 lots) can be expected to be located within the Pinehaven Stream catchment, as anticipated in SKM’s ‘future case scenario’ (2010) where it will seriously threaten the wellbeing and safety of residents in Pinehaven and pose risk of serious damage to the environment as long as the flawed Pinehaven flood modelling remains unrectified, as I have outlined above.
- 4.48 The evidence is clear. Contrary to the “fit for purpose” finding of the Beca Pinehaven Stream Flood Mapping Audit (2015), the Pinehaven flood model is fatally flawed and unreliable. This has been proven by flood extents in the 8 December 2019 Pinehaven flood event where SKM’s predicted 10-year flood extents go way beyond the 25-year flood extents experienced in this event, and which have been well documented and analysed by SOH and its hydrology and hydraulic engineering experts. <sup>17 18 19 20 21</sup> To date, none of the many forums over the last 10 years at which SOH has attempted to explain this evidence – Council meetings, focus groups, hearings, Environment Court, Councillors, consultants or mediations – has provided a welcoming and open environment for genuine discussion and resolution of the issues.
- 4.49 If a transport corridor and infrastructure through the Spur accepted and enabled by PC49 V1 and it proceeds and opens up urban development in the SGA within the Pinehaven catchment before the fatally flawed Pinehaven flood modelling is rectified then the negative and harmful impacts on Pinehaven residents and environment are foreseeable and potentially severe.
- 4.50 SOH therefore requests that the Panel recommends the following:
- i) that submissions be rejected that rely in whole or in part on outdated information in the HBA 2022 and the WRGF to justify the enabling of a transport corridor and infrastructure through the Spur to open up development on the SGA that is no longer required as a result of the greater capacity for more sustainable housing that will become available along rapid rail and around public transport hubs by the NPS-UD 2022, the MDRS and the WRLC FDS; and

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<sup>15</sup> Stephen Pattinson ANZIA; B.Arch (Ak., 1980), M.Arch (VUW, 2012 – thesis by research 2-years fulltime on medium density housing); Registered Architect, NZRAB No. 1951); 30 years professional practice experience

<sup>16</sup> Housing and Business Capacity Assessment 2022, Chapter 6 Upper Hutt, Table 6.2

<sup>17</sup> SOH - Pinehaven Storm on 08 December 2019\_published 18 Dec 2019, 7 Aug 2020, 25 Nov 2020, 16 April 2023 p5,36,40,J41 amended

<sup>18</sup> Bob Hall evidence on behalf of Save Our Hills - Report Pinehaven flood 8 Dec 2019 Updated 3 August 2020

<sup>19</sup> Bob Hall Report Pinehaven flood 8 Dec 2019\_issued 27 July 2020, no change 3 Aug 2020\_Figs. 1 2 & 3

<sup>20</sup> Graeme Horrell\_Review of Pinehaven Stream flood 8 December 2019 at Chatsworth road gauge site and its implications for flood frequency estimates in the catchment by Robert Hall

<sup>21</sup> RJ Hall & Assoc\_Letter to Save Our Hills 29 June 2020

ii) that either the currently flawed Pinehaven flood model and maps be urgently withdrawn and replaced with reliable flood modelling and mapping based on inputs that are truly representative of the characteristics of the existing Pinehaven catchment, or the enabling of the transport corridor and infrastructure through the Spur proposed in PC49 Variation 1 be rejected until such time as the Pinehaven flood modelling is rectified.

## 5.0 Conclusions and Relief Sought:

- 5.1 SOH requests that the Panel make a recommendation to withdraw the invalid General Residential zoning on the Spur;
- 5.2 SOH requests that the Panel recommend a completion of the resolution to make the Spur a legal scenic reserve. We suggest this be done by recommending the following:
  - i) recognising the resolution made by Council that ... on 3 March 1992 [2.8 g) to i) above]
  - ii) recognising that this resolution was publicly notified in the Upper Hutt Leader on 10 March 1992, and objections called for [2.8 j) & k) above];
  - iii) recognising that no objections were received, the matter was considered by the Judicial committee who recommended that Council resolve to allow it, and it was subsequently approved and adopted by Council on 18 August 1992 [2.8 l) to q) above];
  - iv) the large number of submitters requesting in their submissions on PC49 and PC49 V1 provides a strong indication that the public still wants Council to make the Spur a reserve, there we request that the Panel recommend Council now send its resolution to designate the Spur as a scenic reserve to the Commissioner for consideration by the Minister of Conservation to gazette the Spur as a scenic reserve under the Reserves Act 1977;
  - v) this would provide the opportunity at the discretion of the Minister for the Spur to be gazetted as a scenic reserve at comparatively little cost to Council an in fulfilment of the wishes of submitters and many others in the community [2.22].
- 5.3 SOH requests that the Hearing Panel respect the expressed desires of the overwhelming number of submitters who want access to enjoy the Spur but do not want a road through the Spur by recommending that provisions for enabling a transport corridor and infrastructure through the Spur be rejected and that suitable pedestrian access, walking tracks, signage, seats and picnic facilities be provided on the Spur for the public.
- 5.4 i) that the pane recommend submissions be rejected that rely in whole or in part on outdated information in the HBA 2022 and the WRGF to justify the enabling of a transport corridor and infrastructure through the Spur to open up development on the SGA that is no longer required as a result of the greater capacity for more sustainable housing that will become available along rapid rail and around public transport hubs by the NPS-UD 2022, the MDRS and the WRLC FDS; and
  - ii) that the Panel recommend that either the currently flawed Pinehaven flood model and maps be urgently withdrawn and replaced with reliable flood modelling and mapping based on inputs that are truly representative of the characteristics of the existing Pinehaven catchment, or that the enabling of the transport corridor and infrastructure through the Spur proposed in PC49 Variation 1 be rejected until such time as the Pinehaven flood modelling is rectified.

**Appendices:**

1. SOH Submission re UHCC PC49-V1- Appendix 1\_updated 29 Nov 2023
2. SKM 2010\_Future Case Scenario
3. Auckland Council\_GD04 Water Sensitive Design Guide 2015\_pp32-33
4. M Law reply to Kristin Stokes MWH cc M Harkness & M Hooker\_RE- Pinehaven Stream hydrology - Existing and Future Development
5. Beca Audit July 2015\_MWH explain flaw but Beca did not disclose explanation to the public



**Future case scenario**

Future case hydrology was required for a sensitivity analysis of potential changes in flooding as the result of future development in the Pinehaven catchment.

Historical development records and the UHCC urban growth strategy 2007 were used to forecast an additional 155 dwellings in Pinehaven in 20 years time from infill development. However the majority of development in the catchment is forecast to come from the green field development of the Guilford lot on the eastern and southern boundaries of the catchment. Initial estimates forecast that this could add an additional 1500 dwellings to the catchment. The location of the Guilford lot in relation to the catchment is shown in Figure 8.

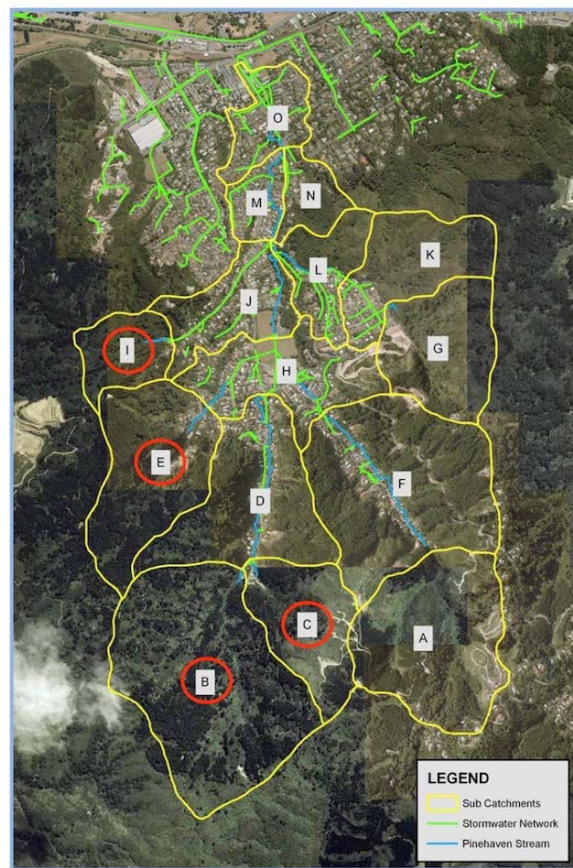


Figure 7 Pinehaven Sub-catchments used for Hydraulic Modelling

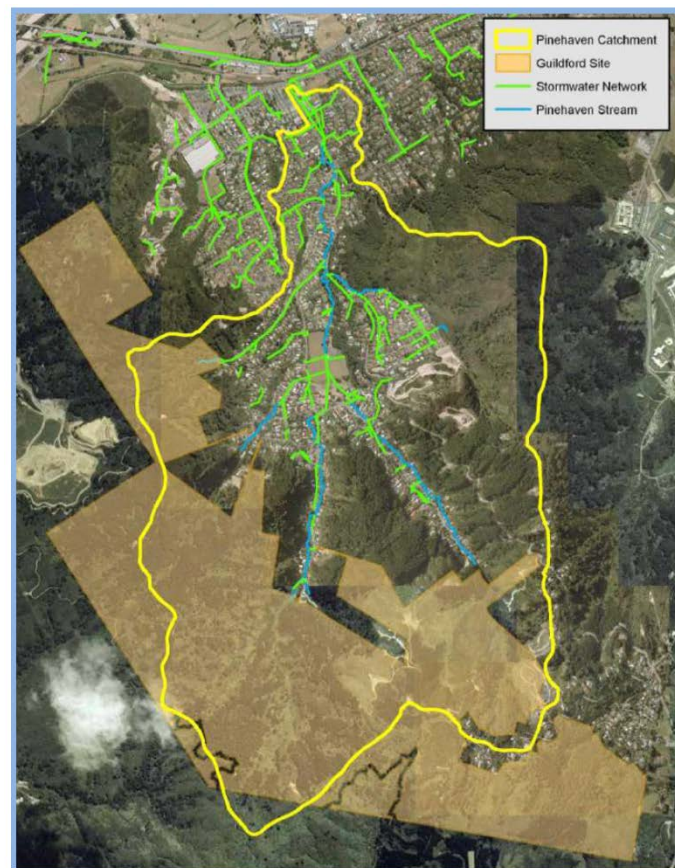


Figure 8 Guilford Land

To provide the required level of detail for the future case hydraulic modelling the following methodology was used:

- As the Guilford development makes up the majority of the new dwellings the predicted 1665 new dwellings for Pinehaven were distributed over this area (sub-catchments I, E, B & C); and
- Distribution of the dwellings was undertaken assuming any undeveloped land (in sub catchments I, E, B & C) would be divided into lot sizes of 750m<sup>2</sup> (minimum size for a residential conservation lot in the Upper Hutt District Plan) and each with a connected impervious area of 40%.



**6.3. Future Development in the Catchment**

In this investigation the future development in the catchment was also analysed in the 100 year storm with the predicted impacts of climate change and the 10 year storm without climate change. For details on how the future case hydrology was developed refer to section 3.2.

The modelled flood extents associated with the 100 year storm including climate change for the current existing hydrology are compared with the flooding extents from the future case hydrology in Figure 19.



Figure 19 Current Existing vs. Future Case Comparison of Predicted Flooding Extents in the Q<sub>100</sub> with Climate Change.

The model results show that there is the potential for future development to increase flooding in the catchment as connected impervious areas can have a much faster runoff response, with less catchment losses than vegetated catchments. However this comparison of the 100 year rainfall event also shows that the change in extents are minor and may be possible to be mitigated. The steep topography of the catchment appears to constrain the overflows in the upper catchment and thus the minor differences observed are in the lower catchment in the vicinity of Whiteman’s Road. The comparison of the modelled inundation depths between current existing and future case hydrology for the 100 year storm results in less than 100mm increase in inundation depths across the catchment.

This analysis was undertaken using the 100 year rainfall event, where much of the floodplain is already inundated. This may have resulted in the impacts of changes in the catchment being drowned out. In lower order flood events the impacts of development are likely to be more readily observed and therefore the assessment of effects for future developments in the catchment should be undertaken in more detail on a case by case bases.

## B2.2 Moderating peak flow rates of stormwater runoff

In many conventional urban developments, stormwater collects on impervious surfaces before 'running off' to kerbs, catchpits and pipes. Based on international literature, a catchment containing 10-20% impervious surface will generally experience a two-fold increase in stormwater runoff volumes during a storm event; a 35-50% increase in impervious area will experience a three-fold increase in stormwater runoff; and a 75%+ area, a fivefold increase (Paul & Meyer, 2001).

Figure 7 is a hydrograph illustrating the discharge of stormwater quantity over time. The developed situation assumes stormwater runoff rapidly coalesces on impervious surfaces, realising a higher peak flow.

This increased runoff rapidly concentrates at the bottom of the catchment via piped systems, leading to significantly larger peak flows. Apart from immediate concerns from surface flooding, there can be serious consequences when these flows reach streams, wetlands or estuaries (receiving environments), where they can cause increased erosion, bank slumping and the subsequent deposition of transported sediments in low-energy downstream environments.

Rainfall infiltration is important to sustain vegetation and groundwater flows to stream environments during dry periods. Impervious surfaces and piped networks reduce the ability of rainfall to infiltrate to groundwater.

Stormwater ponds have traditionally been used to manage these increased flows. They capture and hold stormwater runoff at the bottom of a catchment and provide for a controlled discharge rate to the receiving environment. The hydrograph in Figure 8 illustrates a scenario where a pond is used at the bottom of the catchment, showing the same quantity of stormwater released over a longer time period.

Ponds generally require large areas of flat land that would otherwise be available for development or open space reserve. WSD looks at alternatives to ponds by directing runoff from impervious surfaces to many and dispersed stormwater devices or purpose-designed landscape areas such as vegetated swales, raingardens and pervious paving.

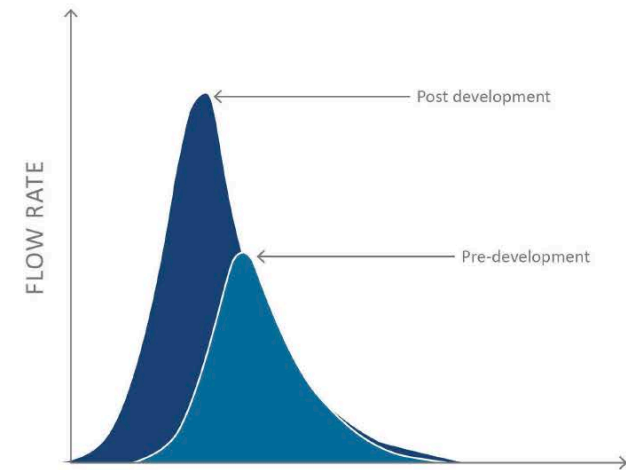


Figure 7: Example pre & post-development hydrographs for uncontrolled conditions (adapted from Shaver, 2000)

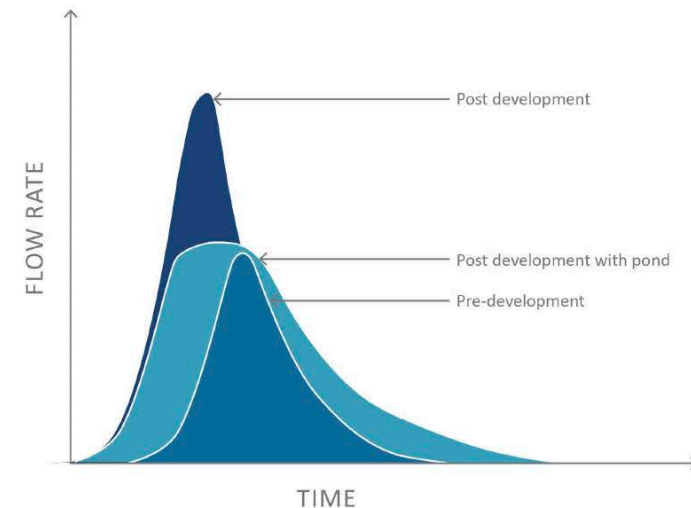


Figure 8: Typical post-development hydrograph with detention (adapted from Shaver, 2000)

From: **Michael Law** Michael.Law@beca.com  
Subject: RE: Pinehaven Stream hydrology - Existing and Future Development  
Date: 11 June 2015 at 5:05 PM  
To: Kristin Stokes Kristin.Stokes@mwhglobal.com  
Cc: Mike Harkness Mike.Harkness@gw.govt.nz, Mark Hooker Mark.Hooker@gw.govt.nz

ML

Hi Kristin

Thnaks for getting back to me. If the initial and continuing losses are the same in both models, then the flood volumes will be the same (so long as there isn't another % impermeable area parameter that negates the losses). So that could explain the volumes. Other parameters within the model could possibly speed up the runoff response to reflect that aspect of development.

As you can see, I have copied **Mike H** in on the email. It might be worth the two of you having a chat to confirm our understanding.

Regards

**MIKE LAW**

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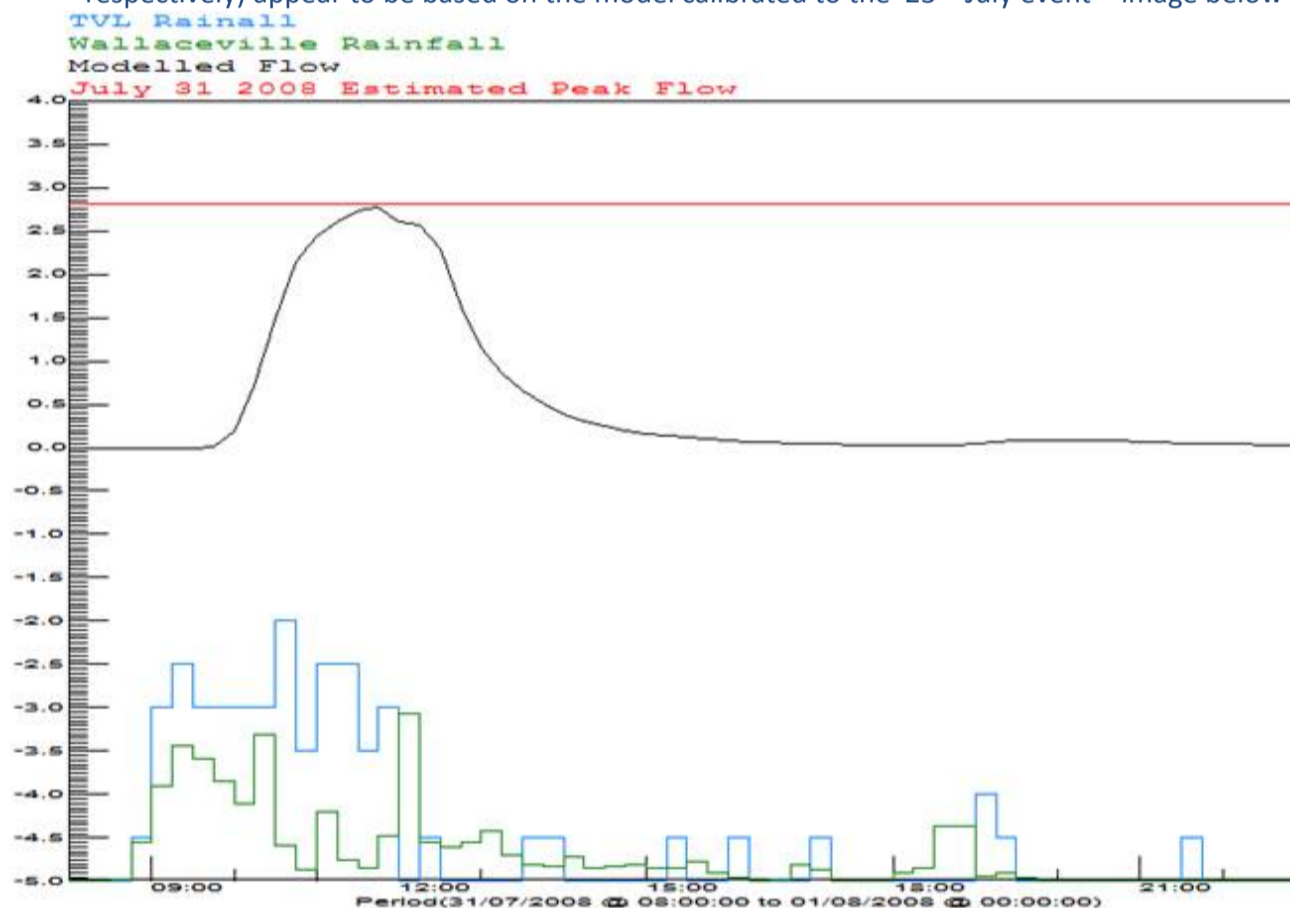
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From: Kristin Stokes [mailto:Kristin.Stokes@mwhglobal.com]  
Sent: Thursday, 11 June 2015 4:15 p.m.  
To: Michael Law  
Subject: RE: Pinehaven Stream hydrology - Existing and Future Development

Hi Mike,

Both Tom and I have looked at the model, but the approach that Mike has used for the development model is a bit difficult to tell, and we don't have time in the next few days to try and unravel them fully.

The new alpha and N values given in the appendix B, Revision of our report ( 2 and 1.7 respectively) appear to be based on the model calibrated to the 23<sup>rd</sup> July event – image below



As far as we can tell the initial Loss and continuing losses used are the same in both models (5mm and 2mm).

The Hydrol model doesn't take any further excess out apart from the initial and continuing losses so that could explain why the volume is the same.

The model that gives the future results I have located the output file and it matches your graph. But I cannot find the model file to be sure of the inputs used.

Would sending the model files to Mike Harkness to interpret be helpful? Otherwise if you give me a call tomorrow maybe we can discuss further

Cheers,  
Kristin



Kristin Stokes  
Hydrologist

MWH New Zealand Ltd  
Level 13  
80 The Terrace  
PO Box 9624  
Wellington, 6011  
[www.mwhglobal.com](http://www.mwhglobal.com)

Tel: +64 4 381 5715  
Fax: +64 4 381 6739

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---

From: Michael Law [<mailto:Michael.Law@beca.com>]  
Sent: Thursday, 11 June 2015 8:36 a.m.  
To: Kristin Stokes  
Subject: FW: Pinehaven Stream hydrology - Existing and Future Development

Hi Kristin

I need to get my draft report to GWRC over the weekend, so please let me know whether or you and Tom have found an answer to my query about the future development hydrology.

I look forward to hearing from you.

Regards

**MIKE LAW**

Associate - Water Resources  
Beca  
DDI: +64 3 371 3666  
Mob: +64 27 508 8972  
[www.beca.com](http://www.beca.com)

---

From: Michael Law  
Sent: Thursday, 4 June 2015 9:20 a.m.  
To: 'Kristin Stokes'  
Cc: Mark Hooker ([Mark.Hooker@gw.govt.nz](mailto:Mark.Hooker@gw.govt.nz))  
Subject: RE: Pinehaven Stream hydrology - Existing and Future Development

Kristin

Thanks. I look forward to hearing from you.

Regards

**MIKE**

---

From: Kristin Stokes [<mailto:Kristin.Stokes@mwhglobal.com>]  
Sent: Thursday, 4 June 2015 9:16 a.m.  
To: Michael Law  
Cc: Mark Hooker ([Mark.Hooker@gw.govt.nz](mailto:Mark.Hooker@gw.govt.nz))  
Subject: RE: Pinehaven Stream hydrology - Existing and Future Development

Hi Mike,

Sorry for the delay in replying to your email. I have been away this week and forgot to set up an out of office email.

I located the files and looked at them last week, although I am not familiar enough with the software to identify why there is no difference in the flood volumes. I will discuss with my colleague Tom who still uses Hydstra to find out if he can shed any light on it today (he was away last week) and get back to you today.

Kind Regards,  
Kristin



**Kristin Stokes**  
**Hydrologist**

MWH New Zealand Ltd  
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80 The Terrace  
PO Box 9624  
Wellington, 6011  
[www.mwhglobal.com](http://www.mwhglobal.com)

Tel: +64 4 381 5715  
Fax: +64 4 381 6739

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---

From: Michael Law [<mailto:Michael.Law@beca.com>]  
Sent: Tuesday, 2 June 2015 12:46 p.m.  
To: Kristin Stokes  
Cc: Mark Hooker ([Mark.Hooker@gw.govt.nz](mailto:Mark.Hooker@gw.govt.nz))  
Subject: FW: Pinehaven Stream hydrology - Existing and Future Development

Hi Kristin

I was wondering whether or not you had been able to look at this issue regarding Pinehaven Stream, or whether MWH are still able to access the model files to be able to do the checks?

If you could let me know how things are going, I'd appreciate it.

Thanks

**MIKE LAW**

Associate - Water Resources  
Beca  
DDI: +64 3 371 3666  
Mob: +64 27 508 8972  
[www.beca.com](http://www.beca.com)

---

From: Michael Law  
Sent: Wednesday, 27 May 2015 12:29 p.m.  
To: [Kristin.stokes@mwhglobal.com](mailto:Kristin.stokes@mwhglobal.com)  
Cc: Mark Hooker ([Mark.Hooker@gw.govt.nz](mailto:Mark.Hooker@gw.govt.nz))  
Subject: Pinehaven Stream hydrology - Existing and Future Development

Hi Kristin

Following on from our meeting last month (regarding the audit that I am doing for GWRC on their flood hazard maps of the Pinehaven Stream catchment), I have reviewed the hydrology and hydraulic modelling, and met with Mike Harkness.

I'm putting the finishing touches to the audit report, but came across one issue quite late in the day relating to the hydrology used for modelling future development. As you will see from the draft report text below, peak flows are higher for Future development but there is no corresponding increase in flood volume.

I had extracted the flood hydrographs from SKM Jacobs MIKE FLOOD model, and so first checked with Ben Fountain that he had used the correct hydrographs. He assured me that they were the hydrographs provided by MWH. Mike Harkness confirmed that they were the outputs from his modelling when he was with MWH, but he doesn't have the hydrological model input/parameters to allow him to understand why there wasn't an increase in flood volume.

Are you able to shed any light on this from the files in your archive. I would value any comments that you have.

The attached spreadsheet has the hydrographs for sub-catchments B and E, as examples.

Regards

**MIKE LAW**

Associate - Water Resources  
Beca  
DDI: +64 3 371 3666  
Mob: +64 27 508 8972  
[www.beca.com](http://www.beca.com)

Extract from draft report prior to review

As part of the flood hazard study carried out by SKM, a future case scenario was carried out to determine the impact of a future development scenario for the Pinehaven Hills. In undertaking this modelling, assumptions were made about the runoff changes that would occur as a result of future development, based on:

- 1665 lots
- Average lot size of 750m<sup>2</sup>
- 40% increase in impermeable area across the affected sub-catchments

Figure 8.1 shows the change in flood hydrographs for existing development (*E4\_Q100CC\_2hr\_HB.bnd11*) and future development (*E4\_Q100CC\_FP\_2hr\_HB.bnd11*) for sub-catchment B, which is in the southwest of the catchment and drains to the top of Pinehaven Road.

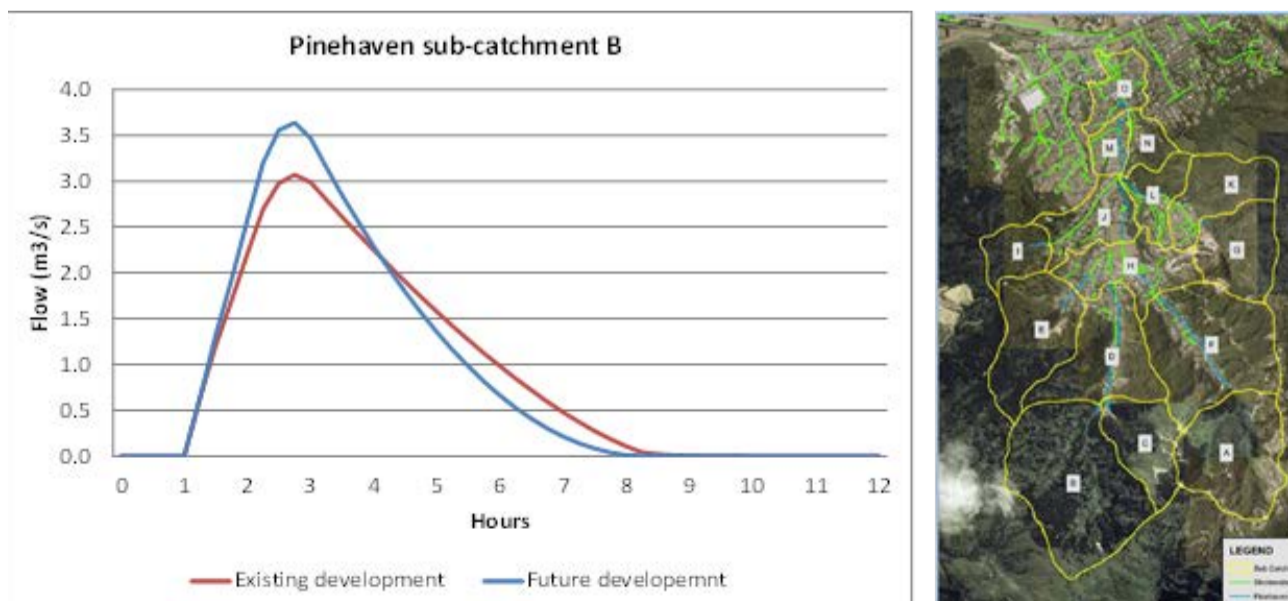


Figure 8.1 – Existing and maximum probable development hydrographs

Future development increases the peak flow by 18% (from 307m<sup>3</sup>/s to 3.64m<sup>3</sup>/s), and the flow recession is steeper than for the existing land use. However, the flood volume does not increase. This



is unexpected, as increasing the impervious area of sub-catchment by 40% to reflect the development would be expected to reduce rainfall losses and increase runoff volume. Similar results were found for sub-catchment E, which drains to Wyndham Road.

Assuming a 100-year ARI plus climate change rainfall depth of 87.1mm for the 3-hour storm, an Initial Loss of 5mm, Ongoing Loss of 2mm, and 40% impermeable area for the affected post-development sub-catchments, then the effective rainfall depths would be;

- 76.7mm (88%) for existing land use
- 80.8mm (93%) for post-development land use

The difference between existing and post-development flood volumes would be expected to be to a similar ratio. The existing ground cover of bush and pine forest on sloping catchments generated relatively high runoff, when compared to natural vegetation on flatter ground. This is reflected in the 88% effective rainfall for the existing situation and only 5.6% increase in effective rainfall post-development.

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## MAJOR FLAW ACKNOWLEDGED BUT DISMISSED WITHOUT BEING RESOLVED

"SOH's concerns are upheld that the effects of future development on flood extents are not modelled correctly. ... However, the flood maps are unlikely to be ... affected by this apparent anomaly." p17



Report

### Pinehaven Stream - Flood Mapping Audit

Prepared for Greater Wellington Regional Council

Prepared by Beca Ltd (Beca)

13 July 2015



## BECA'S FALSE AUDIT USED BY COUNCILS TO SUPPRESS TRUTH ABOUT FLOOD MODEL!

Greater Wellington Regional Council (GWRC) and Upper Hutt City Council (UHCC) 'froze' submissions in 2014 consultations on GWRC's draft Pinehaven Floodplain Management Plan and UHCC's Urban Growth Strategy (UGS), the majority of which challenged the credibility of the flood modelling and opposed Guildford development on Pinehaven hills because of concerns about the reliability of GWRC's baseline flood model for ensuring such development would achieve 'hydraulic neutrality'. Beca's audit July 2015 failed to resolve the flaw submitters were concerned about and found the flood model 'fit for purpose'.

The above consultations were then run again in Oct 2015. GWRC refused submitters' majority request for a further investigation of the major flaw in the flood model, and UHCC disqualified 403 out of 508 UGS submissions (80%) which continued to oppose Guildford development on the Pinehaven hills. UHCC then put the Guildford development into its 2016 Land Use Strategy and used Beca's false audit report [and false claims by the Beca auditor at the 2017 UHCC Plan Change 42 (PC42) Flood Maps Hearing that subsequent re-working of the Pinehaven flood model by Jacobs had rectified the flaw in the flood model when Jacobs didn't even address it let alone rectify it] to support the adoption of the flood maps into the UHCC District Plan. In the PC42 appeal, the Environment Court failed to provide a process to enable this major flaw in the flood model to be addressed and resolved. This flaw in the flood model still exists.

## 'TRAFFIC LIGHT' RATING SYSTEM USED IN THE AUDIT

"Elements of the modelling have been reviewed ... and rated using a 0-3 scoring system (described in Table 4.1), which flags up issues that will affect model use." P4

Table 4.1 – Model review rating scheme

Description	Audit rating	Fit for use
No issue: The element or parameter being reviewed is modelled acceptably	0	Yes
Minor issue: There is an issue, but it is unlikely to significantly affect model results	1	
Major issue: Failure to resolve the issue compromises the model and should be rectified, but may be resolved by explanation or acceptance of model limitations.	2	?
Fatal flaw: Failure to resolve this issue severely compromises the model, and should be rectified before the model is accepted.	3	No

## FUTURE CASE SCENARIO – FLAW IS A MAJOR ISSUE – MODEL NOT FIT FOR USE

"There is no post-development increase in flood volumes. This is unexpected given the increase in impermeable area [i.e. asphalt roads, steel roofs and concrete driveways replacing forest]." p9

Future development	<p>The upper parts of the Pinehaven catchment are bush and forestry. Sub-division development has been mooted for these areas and it could be expected that there would be some infill development in the lower parts of the catchment. While not pre-judging the outcome of any application to develop within the catchment, it is prudent to assess the effects of possible future development when undertaking flood mapping and hazards studies.</p> <p>To that end, SKM ran the model with reworked hydrographs to represent the additional impervious area associated with the development of 1665 lots of 750 m<sup>2</sup> in the upper parts of the catchment. This is probably an over-estimate of the number of lots that could be developed, and as such represents an upper bound on the effect of development on catchment flows and flood extents.</p> <p>Given that the upper catchment is steep, natural runoff could be expected to be quite high and so the relative effect of development would not be great. Were development to occur, mitigation measures would almost certainly be required to attenuate flows and at least reduce peak flows to existing conditions.</p> <p>As noted in Section 8 below, including future development increases modelled peak flows by 18% in sub-catchment B and 13% in sub-catchment E. However, <u>there is no post-development increase in flood volumes. This is unexpected given the increase in impermeable area. MWH were unable to provide an explanation for the lack of increase in flood volume, and so the future development runs of SKM's flood model are potentially compromised in this regard.</u></p>	2	No
--------------------	---	---	----

## AUDITOR FAILS TO DISCLOSE AND RESOLVE KNOWN CAUSE OF MAJOR FLAW

One month before publishing the audit report the auditor learnt from MWH the reason why there is no increase in flood volume when 1,665 dwellings replace forest on the hills, quote: "If the initial and continuing [rainfall] losses are the same in both [pre-development and post-development] models, then the flood volumes will be the same." Beca to MWH, 11 June 2015

BUT In the audit report the auditor failed to disclose this explanation and resolve the major flaw, stating instead: "MWH were unable to provide an explanation for the lack of increase in flood volume." p9 "MWH have not provided an explanation as to why there is no increase in future development flood volumes." p17 "MWH ... have not been able to provide an explanation as to why there is not an increase in flood volume." p27. MWH DID PROVIDE THE EXPLANATION BUT THE AUDIT REPORT DIDN'T DISCLOSE IT.

# Proposed Plan Change 49—Open Spaces—Variation 1

Submission by Save Our Hills (Upper Hutt) Incorporated

Updated 29 November 2023 (updates underlined)

## Appendix 1: Council did not consult Public about changing the zoning of the Silverstream Spur to Residential

When Upper Hutt City Council acquired the Spur land it was known as the “Silverstream Spur” [so named in a Memorandum to UHCC Ordinary Council Meeting 26 February 1992]. The total area of the Spur is 35.14ha. It was purchased in 1991 (possibly from Council Reserve funds - - See PC49 submission by Submitter No. 27 - Silver Stream Railway). It was zoned as “Town Belt”(Fig. 1). It was part of the city’s ‘Green Belt’ (see Figs. 6a, 6b).

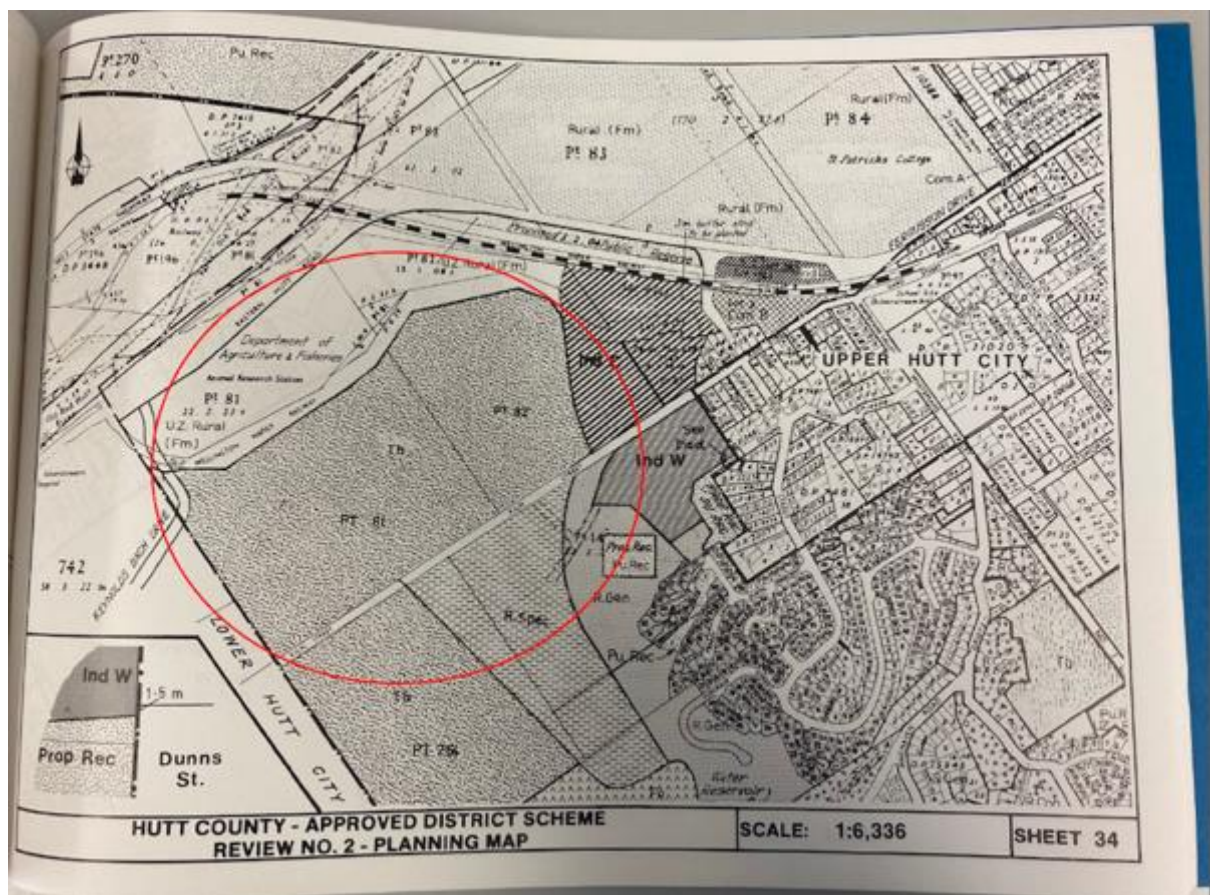


Fig. 1 - Silverstream Spur in 1991 – Part of “Town Belt” zone – a reserve , i.e. part of the city “Green Belt”

On 24 September 1991 Council publicly notified a District Scheme Review (No.4) in the Upper Hutt Leader (Fig. 2). A Planning Map in that review (Urban Map No. 2 – see Figs. 3a & 3b) showed about 15.84ha of the Spur changed to “Rural Hill” zone and about 19.30ha of the Spur changed to Residential Conservation zone.

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**UPPER HUTT BRANCH**  
 The CHAIRMAN and COMMITTEE have pleasure in inviting interested members of the Public to their Annual General Meeting on **WEDNESDAY SEPTEMBER 25, 1991** Commencing at 7.45pm at the **HAPAI CLUB** 879 Ferguson Drive, Upper Hutt Guest Speaker: Peter McCardie, Member of Parliament, Harebourside electorate Subject: Social services in the Upper Valley **SUPPER WILL BE SERVED.** RSVP 816 Balfour, Secretary, 744 Ferguson Drive, Phone 281 182

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**PUBLIC NOTICES**  
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**The Town and Country Planning Act 1977**  
**Public Notification of District Scheme Review**  
 The Upper Hutt City Council has, by way of review, prepared a new District Scheme - Review No 4 - for the whole of the District of Upper Hutt City. Copies of proposed City of Upper Hutt District Scheme (Review No. 4) may be inspected, without fee, at the following offices at any time when those offices are open to the public:  
 a) The Public Counter, Level 2, Civic Administration Building, 838-842 Ferguson Drive, Upper Hutt.  
 b) The Upper Hutt City Council Library, Ferguson Drive, Upper Hutt  
 c) The Silverstream Service Centre, Durston's Books, Corner Whitemans Road and Kile Street, Silverstream.  
 Submissions and objections to proposed District Scheme (Review No. 4) or any part thereof may be made by any body or person affected or representing some relevant aspect of the public interest.  
 Submissions and objections shall be in writing in Form C (prescribed in the Schedule to the Town and Country Planning Regulations 1978) or to the like effect. Copies of Form C are available at any of the foregoing offices where the proposed District Scheme (Review no. 4) can be inspected.  
 Submissions and objections may be lodged with the Council (copy by delivery to the Public Counter, Level 2, Civic Administration Building, 838-842 Ferguson Drive, Upper Hutt or by post addressed to the Chief Executive, Upper Hutt City Council, Private Bag, Upper Hutt. All submissions and objections must be delivered, or posted to arrive at the office of the Council by not later than 3.00pm on Tuesday 14 January 1992.  
 At a later date every submission and objection will be open for public inspection and any body or person who wishes to support or oppose any submission or objection will be entitled to do so.  
 Dated at Upper Hutt this 28th day of September 1991.

**Meetings for September/October**  
 Please note the following times for the September/October series of meetings of Council:  
 An agenda is available for inspection on the Friday before each meeting in the Reception Area, Level 2, Civic Administration Building, 838-842 Ferguson Drive, Upper Hutt. Meetings and meeting times are liable to alteration and a check should be made at City Council offices by telephoning 288 700.  
**PUBLIC AFFAIRS COMMITTEE**  
 7.30pm, Wednesday 16 October 1991  
**OPERATIONS COMMITTEE**  
 7.30pm, Tuesday 15 October 1991  
**JUDICIAL COMMITTEE**  
 Monday 30 September 1991 at conclusion of Development Co-ordination Committee Meeting.  
 8.30am, Friday 18 October 1991  
**DEVELOPMENT CO-ORDINATION COMMITTEE**  
 8.30am, Monday 30 September 1991  
 8.30am, Tuesday 22 October 1991  
**POLICY & PLANNING COMMITTEE**  
 7.30pm, Wednesday 23 October 1991  
**COUNCIL**  
 7.30pm, Wednesday 30 October 1991  
 All Committees, except the Development Co-ordination Committee, meet in the Council Chamber, Level 3, Civic Administration Building, 838-842 Ferguson Drive, Upper Hutt and the Development Co-ordination Committee meets in the Conference Room, Level 4.  
 Council has established a policy that the first twenty minutes of each meeting is set aside for any member of the public to comment on any item on the Agenda, except at the Judicial Committee.

**Impounded Dogs**  
 The following dogs are now being held at the City Pound, Mangarua Valley:  
 Dohman - tan, female, Ferguson Drive;  
 German Sheep Lab Cross-pup - black and tan, male, Anarua St.  
 Bull Terrier X - brindle and white, female, Plains Road.  
 Unless these dogs are claimed and all fees owing are paid by their owners before five pm on Thursday 26 September 1991, arrangements will be made for their disposal.  
 RS Tucker  
 Chief Executive

THE LEADER, SEPTEMBER 24, 1991-27

Fig. 2 – Public Notification of UHCC District Scheme Review No. 4 on 24 September 1991

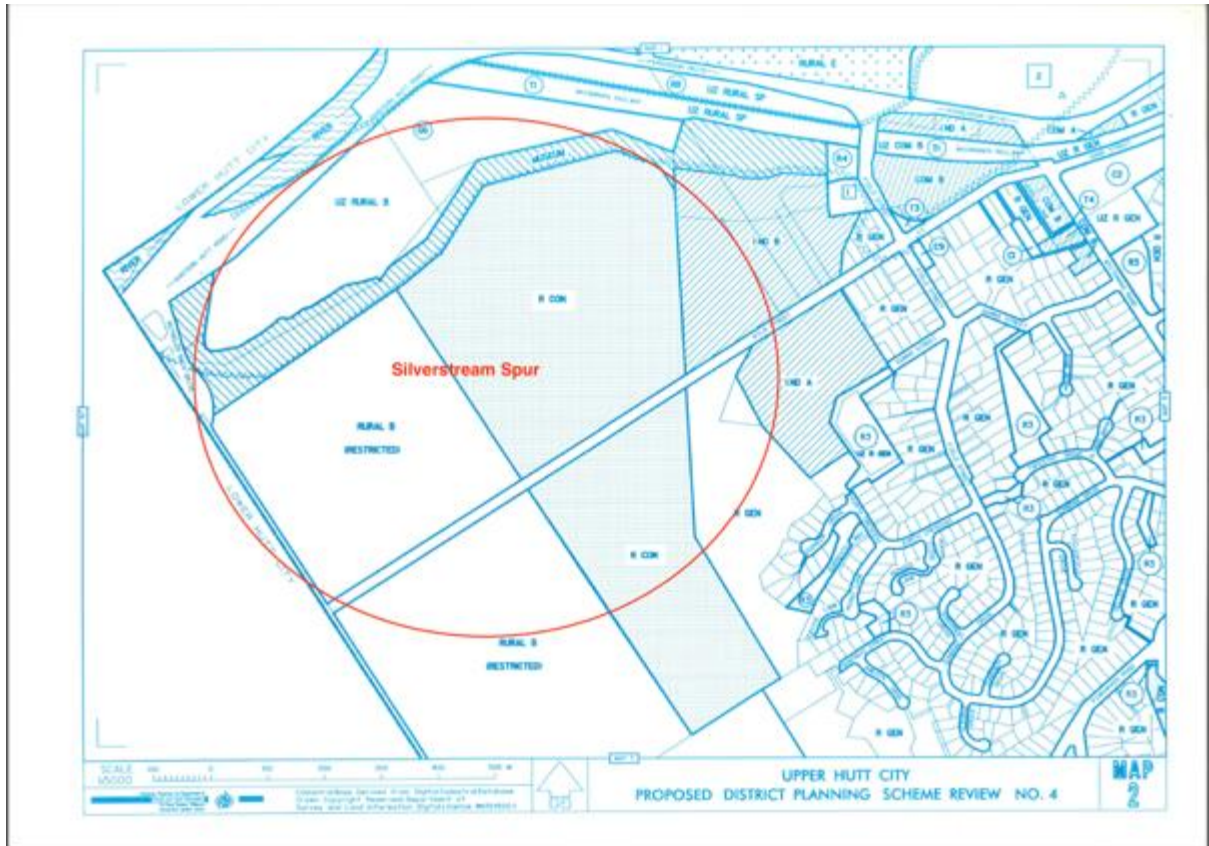


Fig. 3a - Scheme Review No.4 - Map 2 - half the Spur changed to “Residential Conservation”

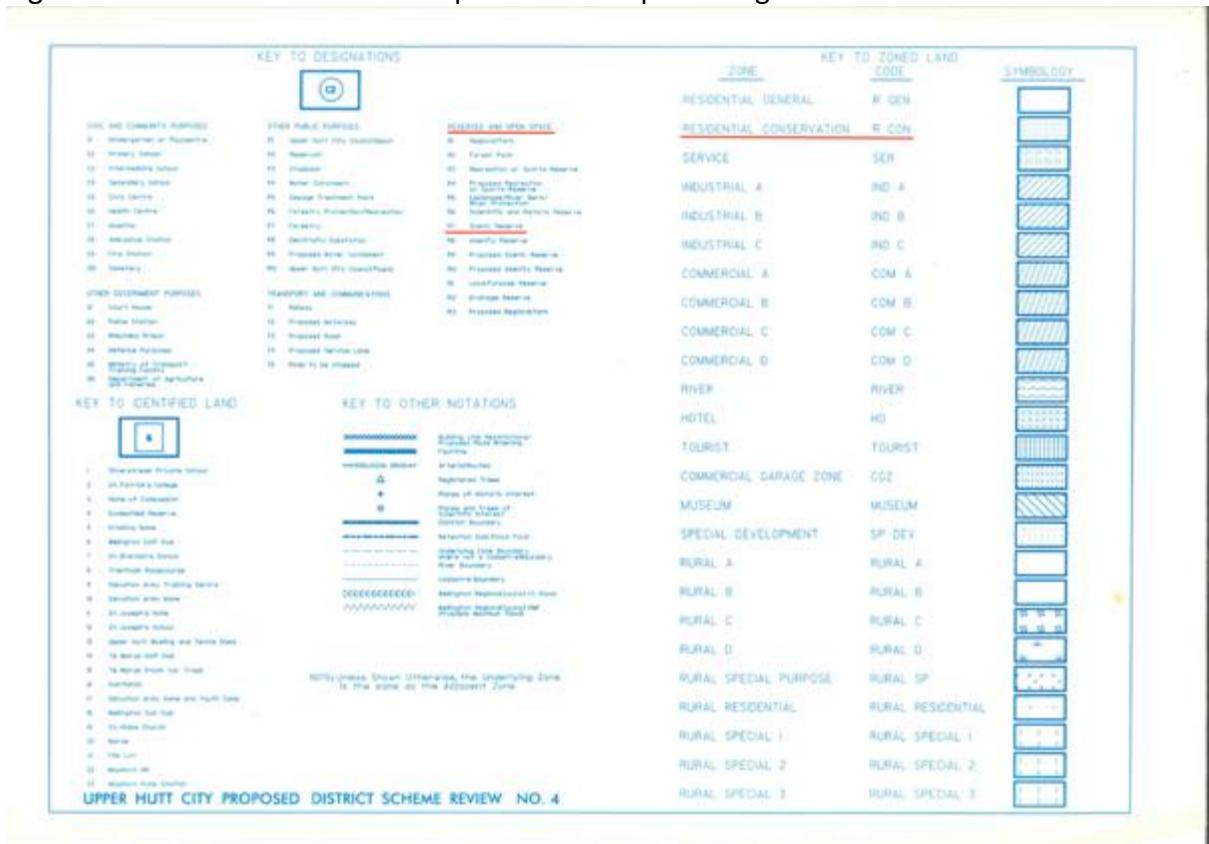


Fig. 3b - Scheme Review No.4 – LEGEND: R CON = Residential Conservation; Designation R7 = Scenic Reserve

The developer of Sylvan Way subdivision which was being planned at that time, Mr W. S. Wyatt, wrote to Council on 21 February 1992 pointing out that the Residential Conservation zone on his land was also shown incorrectly on the Spur land (Fig. 4a & 4b). Mr Wyatt asked that his correspondence be accepted as a late submission in the District Scheme Review.

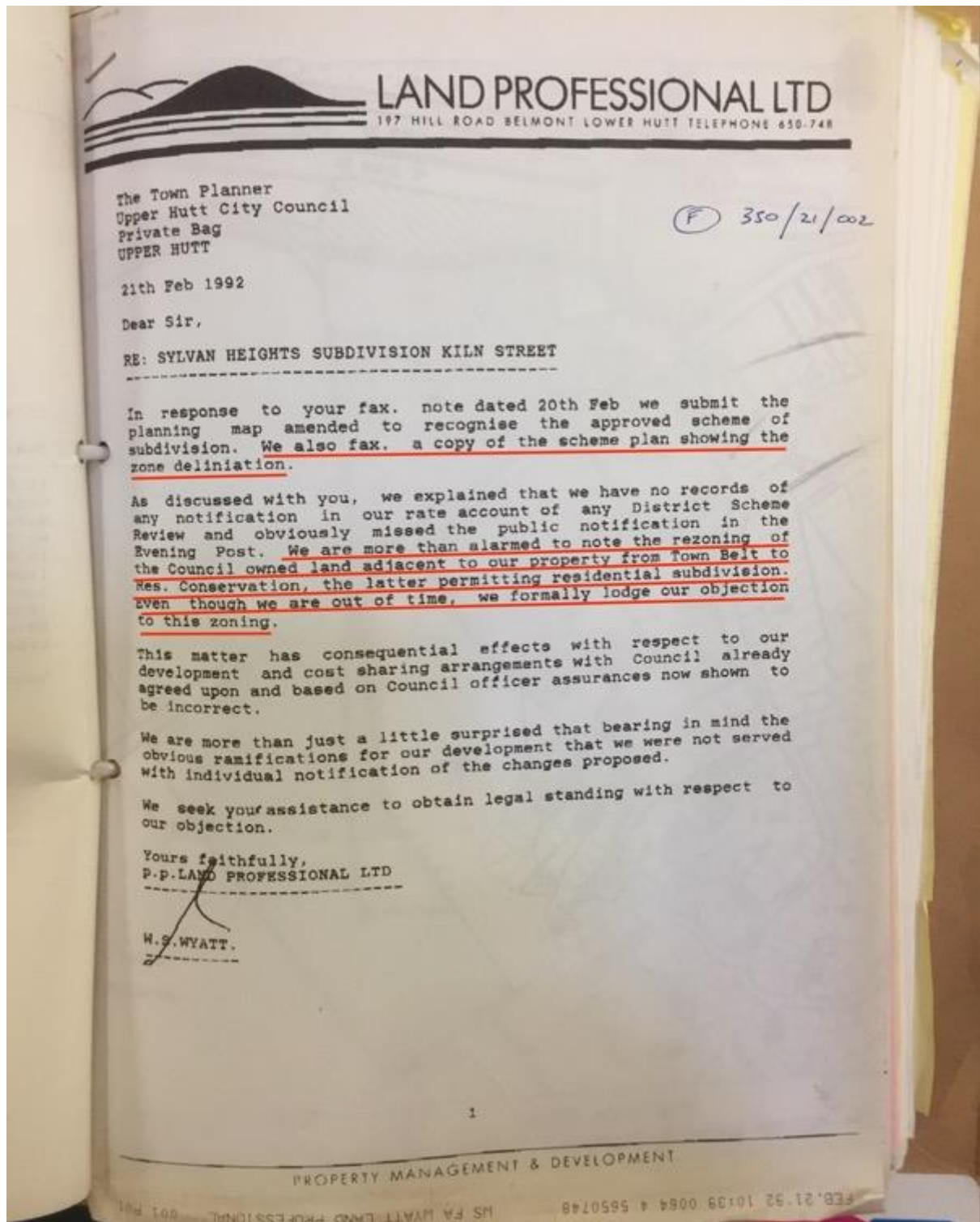


Fig. 4a - Correspondence Mr Wyatt to UHCC, 21 Feb 1992, about incorrect zone on the Spur

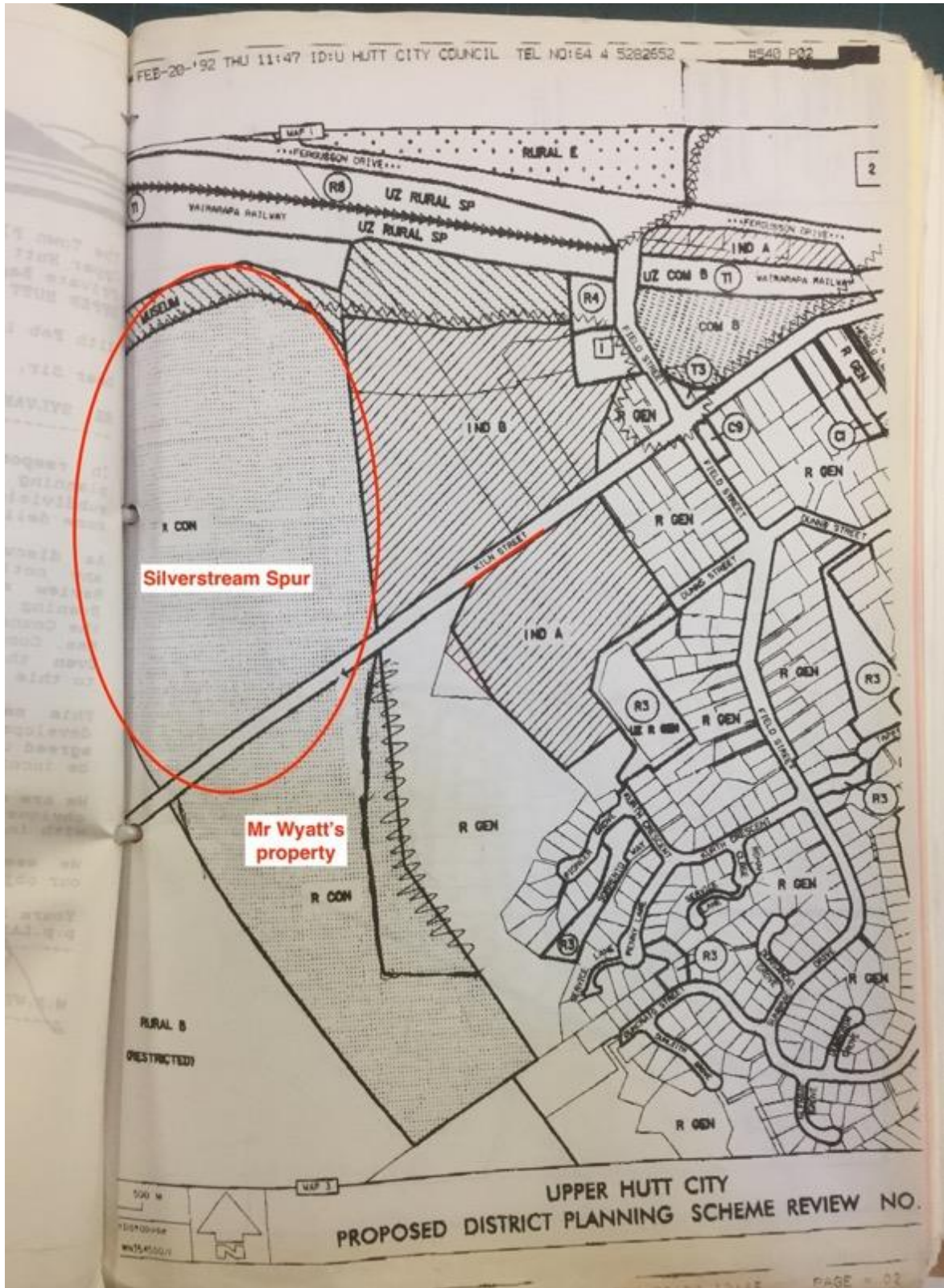


Fig. 4b - Correspondence Mr Wyatt to UHCC – R CON on north side of Kiln Street is the Spur

The City Planner responded to Mr Wyatt acknowledging that the Residential Conservation zoning on the Spur was an error and that it would be altered (Fig. 5).

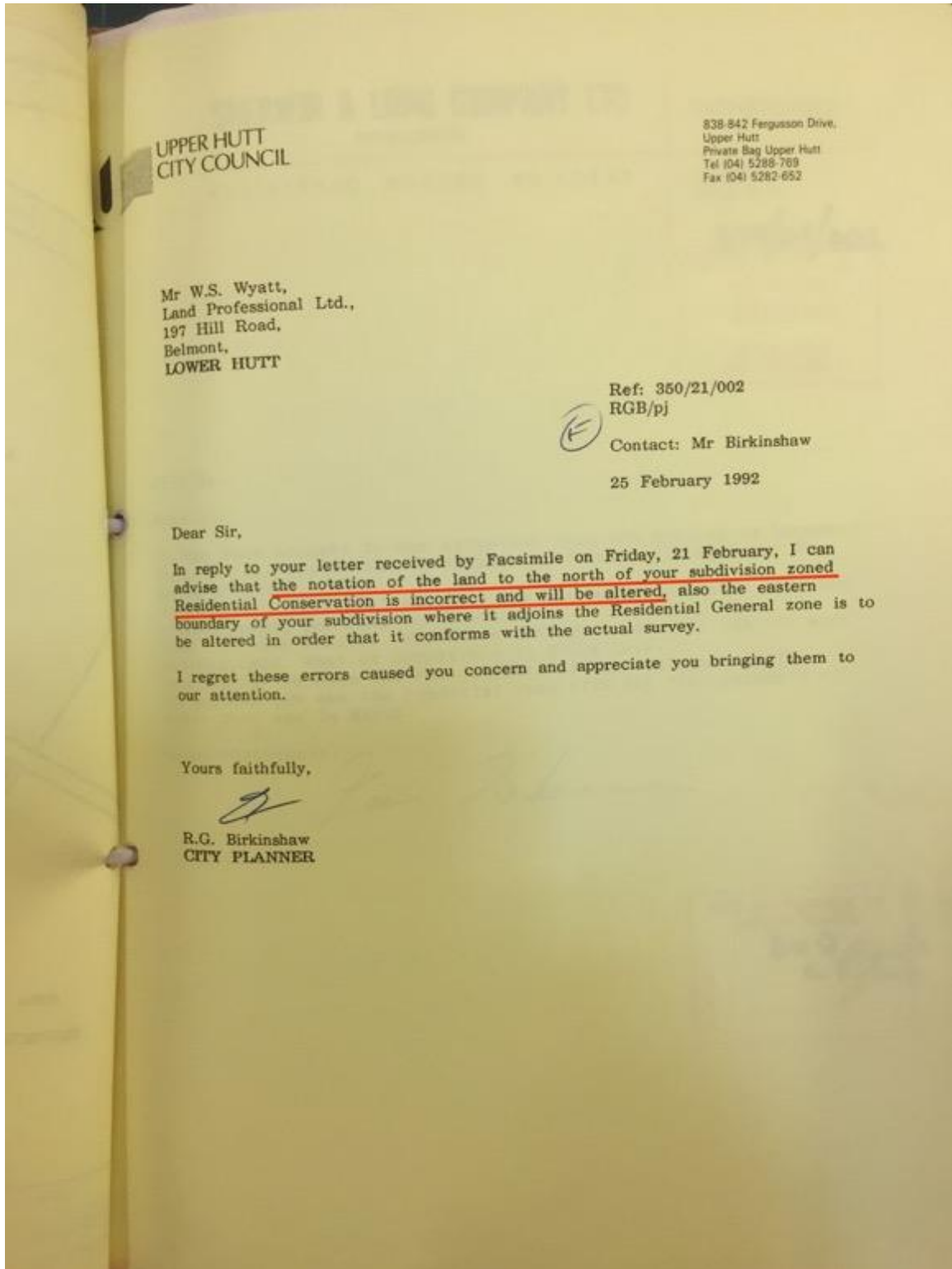


Fig. 5 - UHCC City Planner's reply to Mr Wyatt acknowledges the incorrect zoning on the Spur and advises that the zoning will be altered [corrected].

The City Planner then wrote a memo to the Mayor, Chief Executive and City Solicitor pointing out this error in the zoning of the Spur on Urban Map No. 2, stating that it would be corrected to show the Spur "designated" as "Scenic Reserve". He wrote, quote:

*"Two errors were found on Zoning Map 2 by Mr Warwick Wyatt ...*



i) The ex: Hutt County Green Belt area bounded yellow on the attached map [the half of the Spur shown zoned as Residential Conservation] should be designated (R7) Scenic Reserve and not Residential Conservation."

Memo from City Planner to the Mayor, Chief Executive and City Solicitor, dated 25 February 1992. (Figs. 6a & 6b)

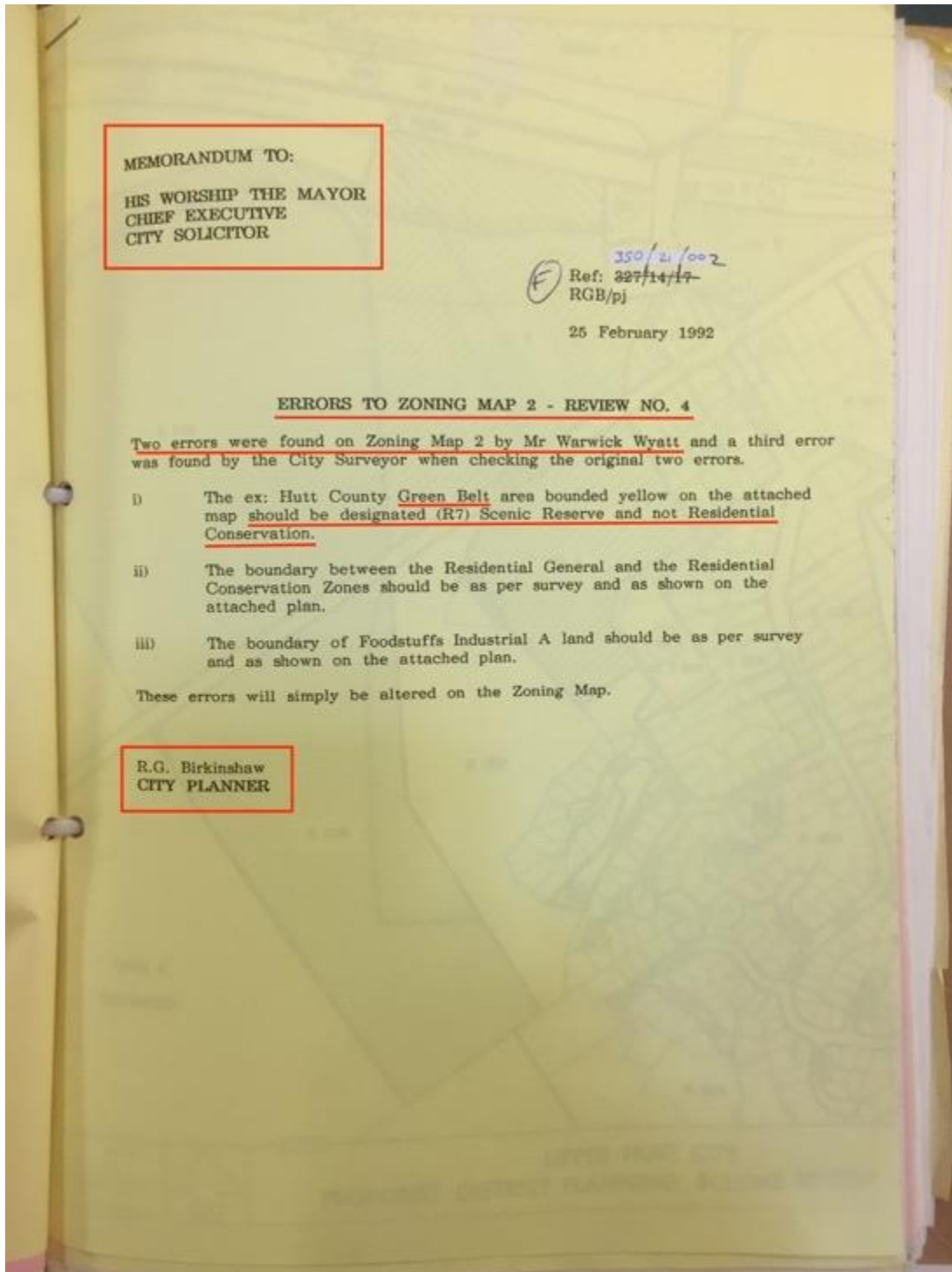


Fig. 6a - UHCC City Planner's Memo to the Mayor, Chief Executive and City Solicitor advising of the error in the zoning of the Spur and stating it would be designated "Scenic Reserve".

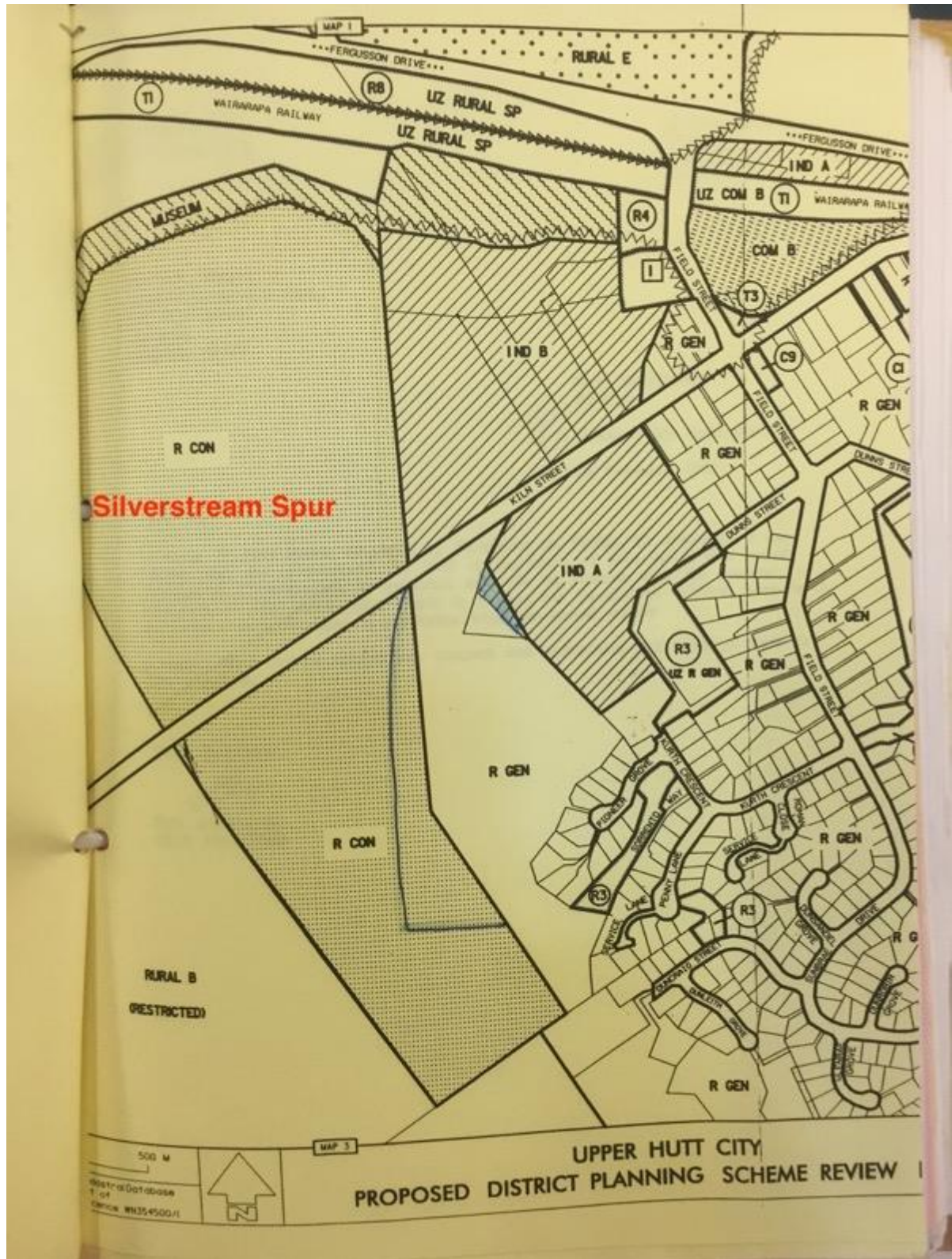


Fig. 6b - UHCC City Planner's Memo to Mayor, Chief Executive and City Solicitor – yellow highlighting around the “R CON” zoning on the Spur is the zoning “error” to be corrected. [NB: Yellow highlighting on yellow paper – the highlighting around the R CON area on the Silverstream Spur is faint after 30 years but is still discernable]

The City Solicitor then wrote a formal letter dated 03 March 1992 to Wellington Regional Council, Hutt City Council, Kapiti Coast District Council, Porirua City Council, South Wairarapa District Council, the Minister for the Environment, the Department of Conservation, the Hutt Valley Energy Board, the Wellington District Maori Council, Transit New Zealand and Orongamai Marae providing them with a copy of the public notification of Review No. 4 which contained a summary of alterations proposed by submissions or objections. Included in the summary of alterations is the correction to the zoning on the Spur to show the Spur land as “Rural B Restricted” with a designation as “Scenic Reserve”, stating:

*“UPPER HUTT CITY COUNCIL – PROPOSED DISTRICT SCHEME (REVIEW NO.4)*

*I refer to my letter dated 19 September 1991 with which I enclosed a copy of the public notification of Review No. 4.*

*A number of objections or submissions were received. Council has prepared a summary of alterations proposed by those submissions or objections. The Summary will be publicly notified in the “Leader” on 10th March 1992.*

*... I enclose a copy herewith.*

*Summary of Requests for Alterations ...*

*The Council is ... required to publicly notify a summary of all requests for alterations to the proposed District Scheme (Review No. 4) contained in the submissions or objections received. The summary is set out below. ...*

*Requests for Alterations to Planning Maps: ...*

*11. The Upper Hutt City Council seeks the following alterations ...*

*Correct Map 2 as follows:*

*a) change zoning of land on northern side of Kiln Street [Silverstream Spur] from Residential Conservation to Rural B (restricted) and record its designation as R7 (Scenic Reserve).*

*UHCC City Solicitor letter, 3rd March 1992 (Figs. 7a – 7e)*

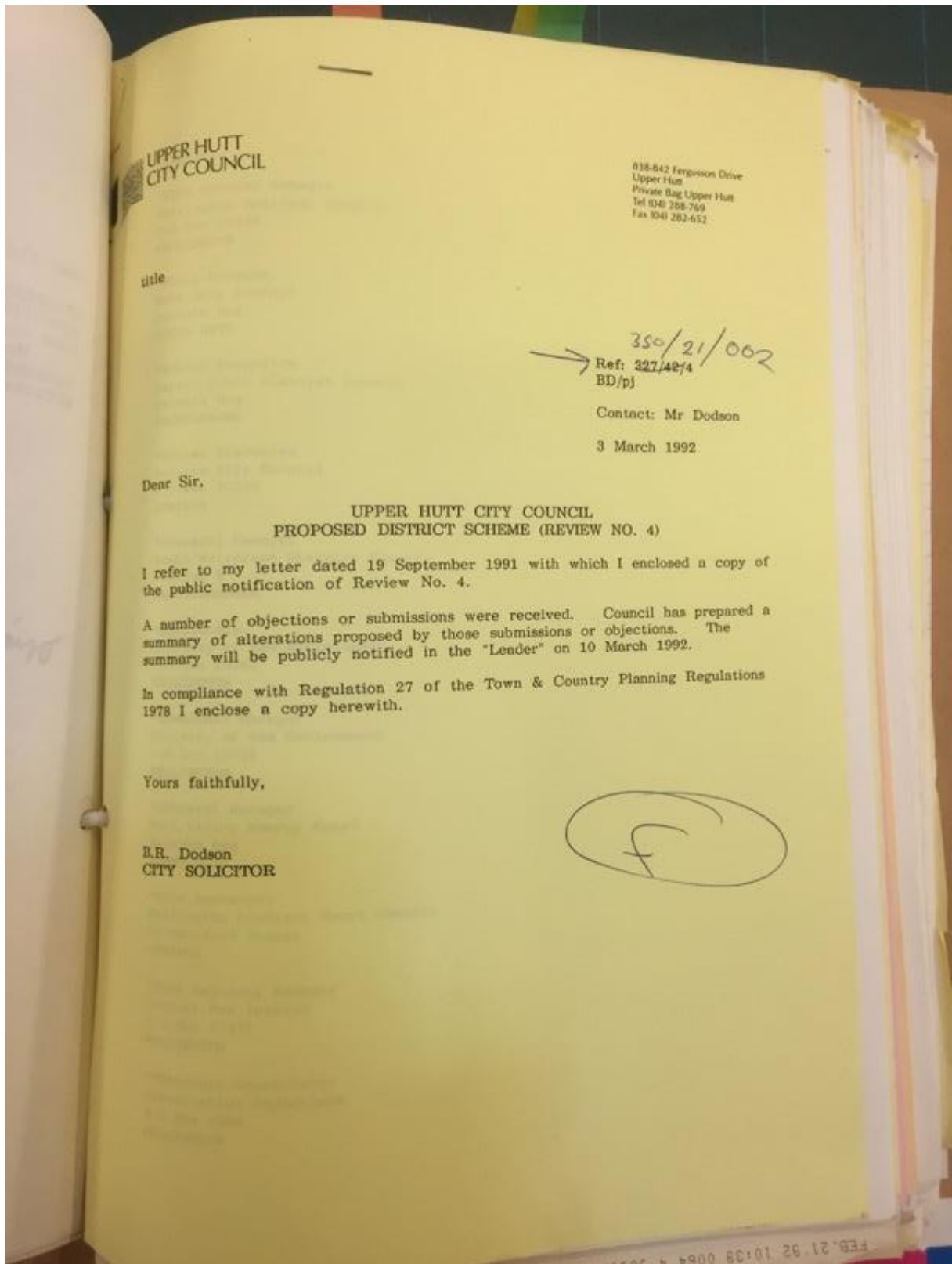


Fig. 7a - UHCC City Solicitor's letter to all Councils in the Wellington region, the Minister for the Environment and the Department of Conservation advising of publishing of submissions on the District Scheme Review No. 4.

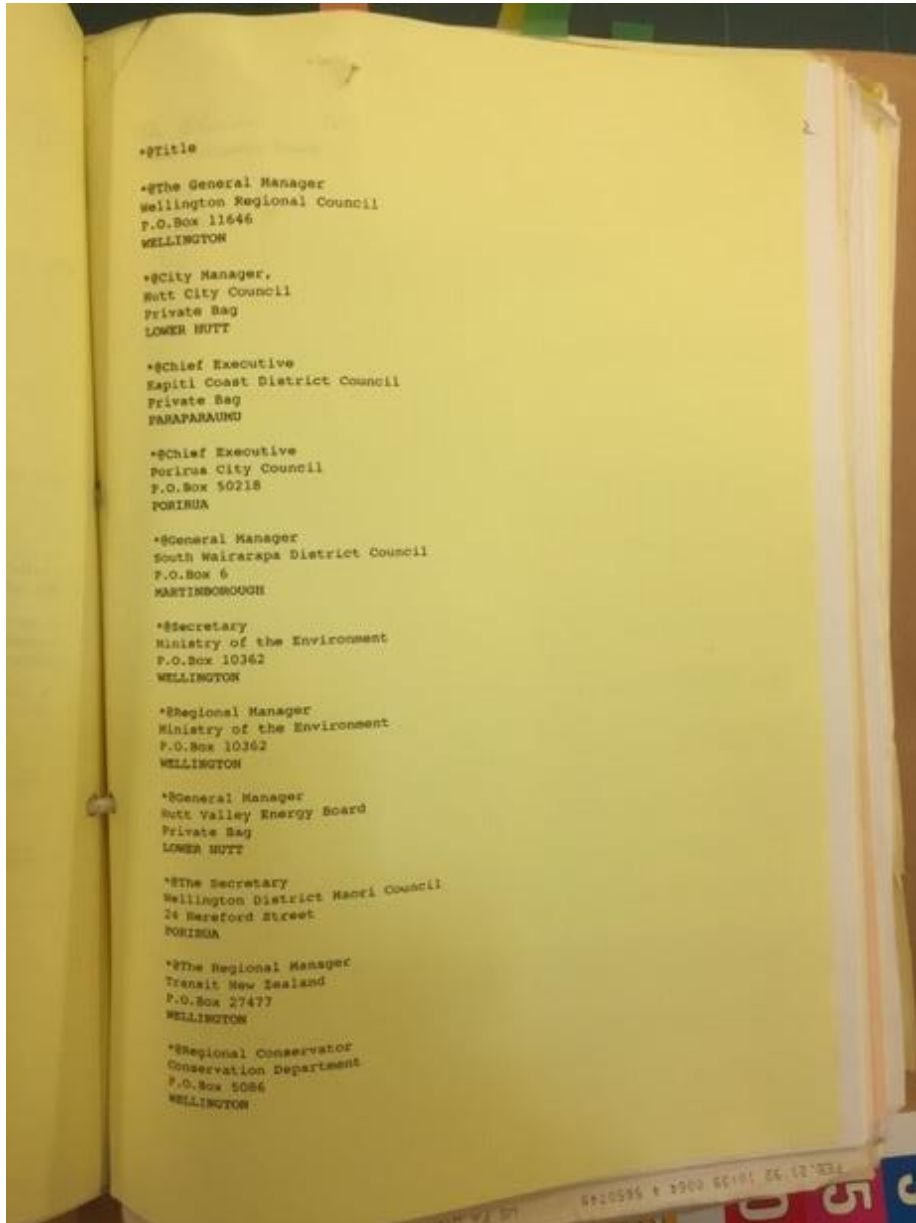


Fig. 7b - UHCC City Solicitor's letter (contd)

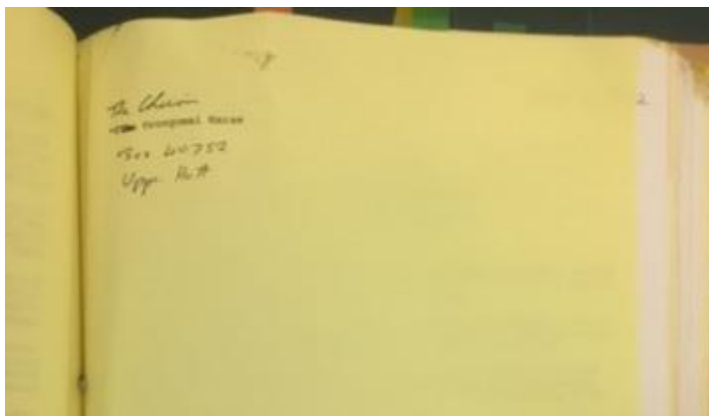


Fig. 7c - UHCC City Solicitor's letter (contd)

350/21/002

CITY OF UPPER HUTT

PROPOSED DISTRICT SCHEME (REVIEW NO.4)

SUMMARY OF REQUESTS FOR ALTERATIONS

PUBLIC NOTIFICATION of the City of Upper Hutt Proposed District Scheme (Review No.4), was given by advertisement in "The Leader" on 24 September 1991. The public notice called for objections or submissions to be lodged with the Council by 14 January 1992.

A NUMBER of submissions or objections were received. The Council is now required to publicly notify a summary of all requests for alterations to the Proposed District Scheme (Review No.4) contained in the submissions or objections received. That summary is set out below.

COPIES of all the submissions and objections received in respect of Proposed District Scheme (Review No.4), (as well as a copy of Proposed District Scheme Review No.4) may be inspected, without fee, at the following Council offices at any time when those offices are open to the public:

- (a) The Public Counter, Level 2, Civic Administration Building, 838-842 Fergusson Drive, Upper Hutt.
- (b) The Upper Hutt City Council Library, Fergusson Drive, Upper Hutt.
- (c) The Silverstream Service Centre, Davison's Books, Cnr. Whitemans Road and Klin Street, Silverstream.

PERSONS or Bodies affected by Proposed District Scheme (Review No.4) or any part thereof or who represent any relevant aspect of the public interest, may give notice to the Council of support or opposition to any of the submissions or objections received.

Notices of support or opposition must be in writing, in Form D (described in the First Schedule to the Town and Country Planning Regulations 1978), or to like effect and must be lodged with (i.e. received by) the Council by no later than 3.00pm on 1 April 1992.

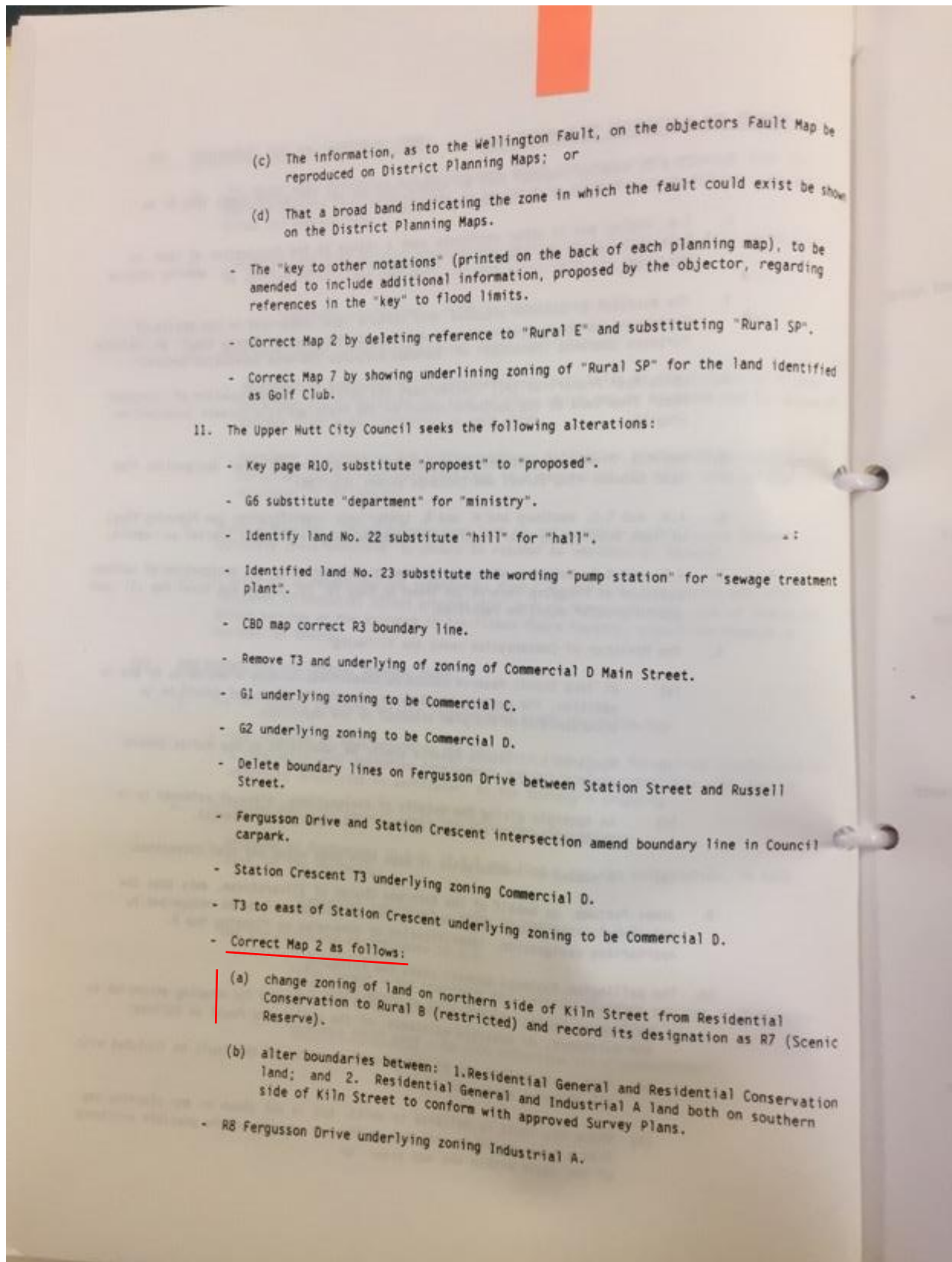
NOTICES may be delivered at any of the offices where submission or objection are available for inspection or they can be posted. The Council's postal address is Private Bag, Upper Hutt.

COPIES of Form D can be obtained at any of the foregoing offices where the Proposed District Scheme (Review No.4) and copies of submissions and objections thereto, can be inspected.

REQUESTS FOR ALTERATIONS TO THE SCHEME STATEMENT (INCLUDING THE STATEMENT OF PURPOSES, OBJECTIVES AND POLICIES)

1. A.V. & S.E. Westbury ask for the Scheme Statement to contain an accurate description of the land which makes up the Mangaroa Hills ridgetop reserve and a statement as to the classification of the reserve including definitions of the terms used.
2. The Wellington Area Health Board proposes that the Scheme Statement contain proposals regarding alternative landfill sites and disposals methods for use when Silverstream Tip can no longer be utilised.

Fig. 7d - UHCC City Solicitor's letter (contd)



- (c) The information, as to the Wellington Fault, on the objectors Fault Map be reproduced on District Planning Maps; or
- (d) That a broad band indicating the zone in which the fault could exist be shown on the District Planning Maps.
- The "key to other notations" (printed on the back of each planning map), to be amended to include additional information, proposed by the objector, regarding references in the "key" to flood limits.
- Correct Map 2 by deleting reference to "Rural E" and substituting "Rural SP".
- Correct Map 7 by showing underlining zoning of "Rural SP" for the land identified as Golf Club.

11. The Upper Hutt City Council seeks the following alterations:

- Key page R10, substitute "propoest" to "proposed".
- G6 substitute "department" for "ministry".
- Identify land No. 22 substitute "hill" for "hall".
- Identified land No. 23 substitute the wording "pump station" for "sewage treatment plant".
- CBD map correct R3 boundary line.
- Remove T3 and underlying of zoning of Commercial D Main Street.
- G1 underlying zoning to be Commercial C.
- G2 underlying zoning to be Commercial D.
- Delete boundary lines on Fergusson Drive between Station Street and Russell Street.
- Fergusson Drive and Station Crescent intersection amend boundary line in Council carpark.
- Station Crescent T3 underlying zoning Commercial D.
- T3 to east of Station Crescent underlying zoning to be Commercial D.
- Correct Map 2 as follows:
  - (a) change zoning of land on northern side of Kiln Street from Residential Conservation to Rural B (restricted) and record its designation as R7 (Scenic Reserve).
  - (b) alter boundaries between: 1. Residential General and Residential Conservation land; and 2. Residential General and Industrial A land both on southern side of Kiln Street to conform with approved Survey Plans.
- R8 Fergusson Drive underlying zoning Industrial A.

Fig. 7e - UHCC City Solicitor's letter (contd) – Note at bottom of page – error in zoning on Spur to be corrected and designated as "Scenic Reserve" – this was published in the Upper Hutt Leader on 10th March 1992 (see Fig. 8).

The City Solicitor's above letter was published in full in the Upper Hutt Leader on 10 March 1992, being the Council's summary of public objections and submissions on the District Scheme Review No.4. The statement about correcting the zoning of the Spur to "Scenic Reserve" is on p36 of this edition of the Leader (Fig. 8)

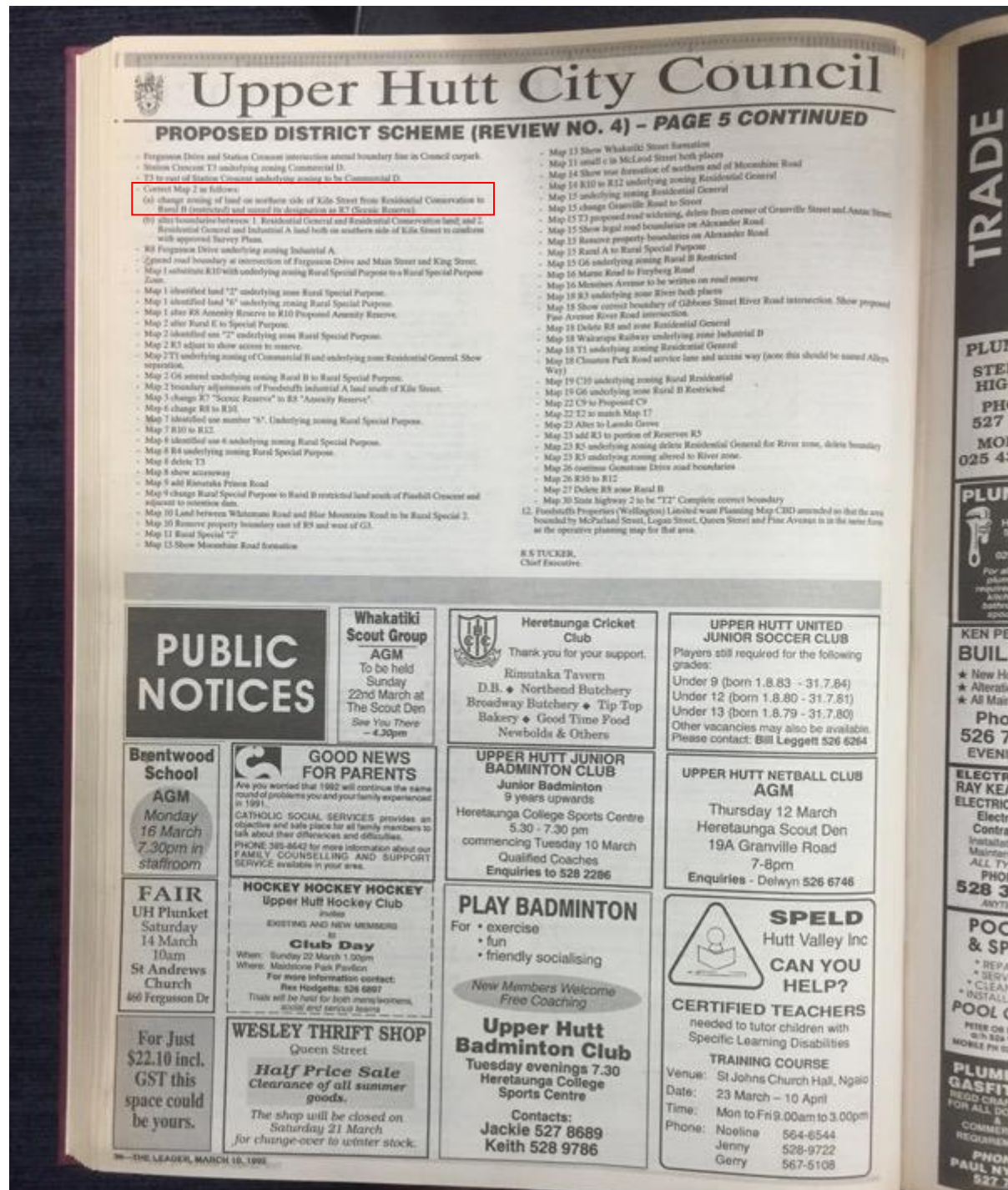


Fig. 8 – UHCC City Solicitor's public notification in the Leader, includes acknowledgement of the error in the R CON zoning on the Spur, to be corrected to "Scenic Reserve".



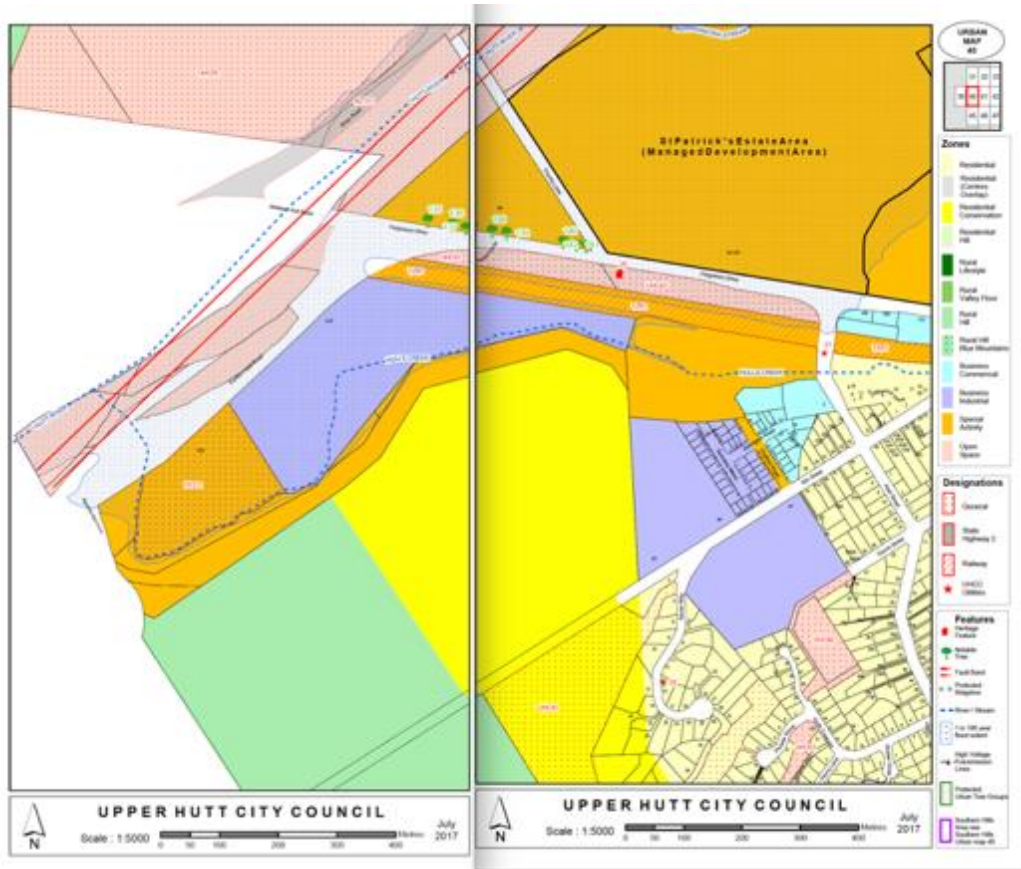


Fig. 9 - UHCC Planning Maps 39 & 40

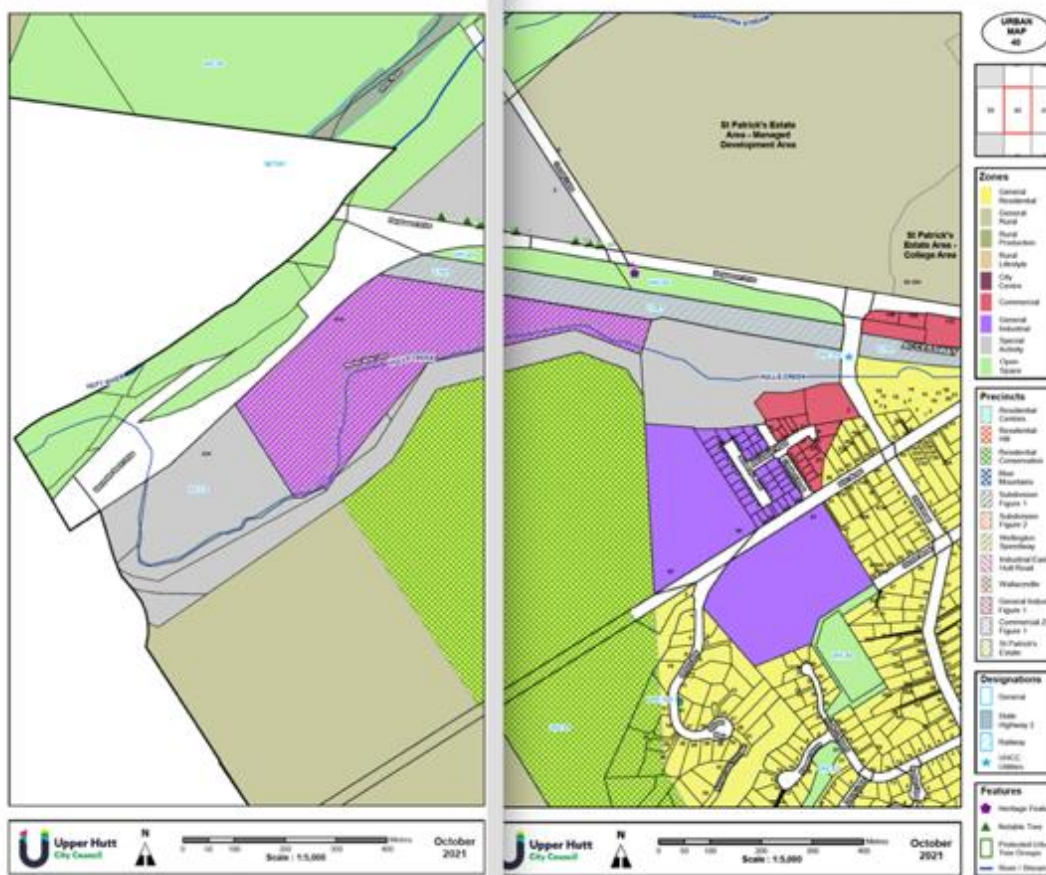


Fig. 10 - UHCC Planning Maps 39 & 40 (re-formatted October 2021)

The public was not consulted about the zone change of the Silverstream Spur to “Residential Conservation”. Council claims today that it did consult the public about changing the zoning of the Spur from reserve land to residential Conservation. However, Council has not been able to provide any documentation to show that the public was consulted. The reason Council cannot provide any documentation to show that it consulted the public about this change of zoning to Residential Conservation on Silverstream Spur is because Council never followed due planning processes to consult the public about it.

It is appropriate and indeed incumbent on Council to make good its promise back in 1992 to correct the error on its Urban Planning Maps 39 and 40 by including the Silverstream Spur in Plan Change 49 ‘Open Spaces’ and officially designating the Silverstream Spur under the Reserves Act 1977 as a “Scenic Reserve”. But regrettably Council left the Silverstream Spur out of Plan Change 49 (Fig. 11). The Spur has now been included in PC49 Variation 1.

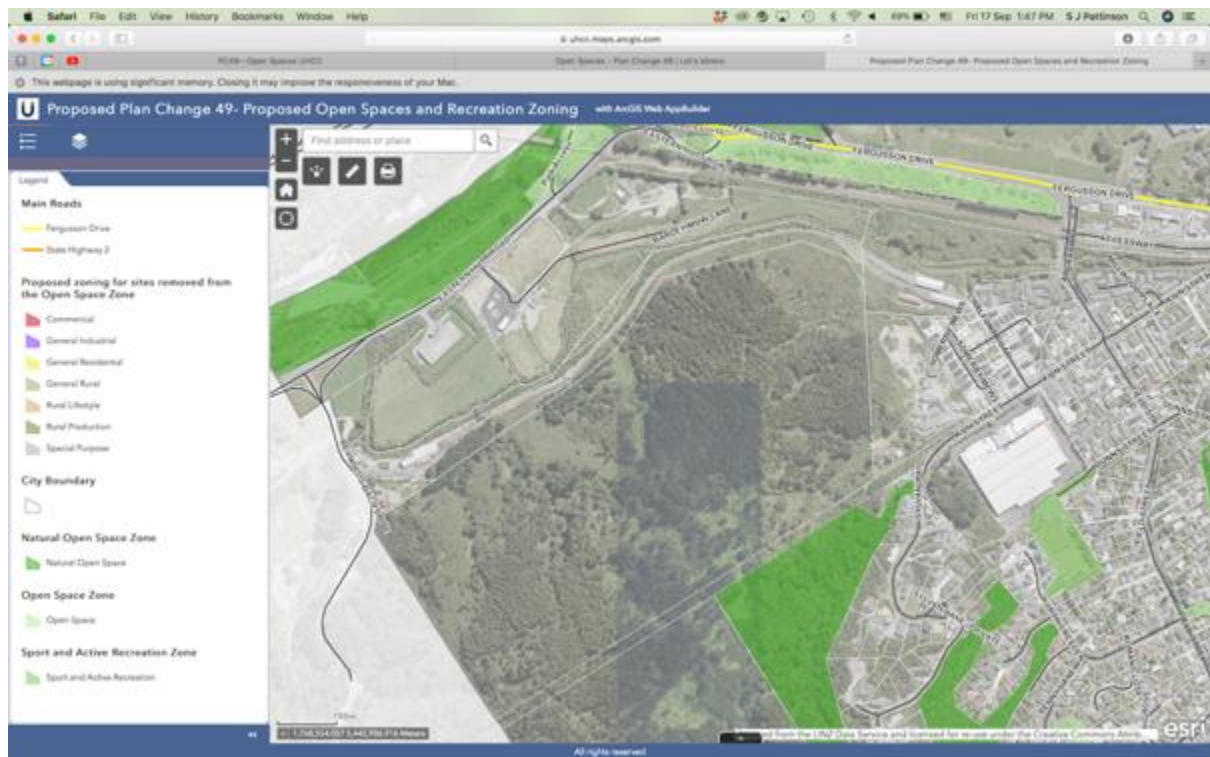


Fig. 11 - UHCC PC49 Planning Map – Silverstream Spur omitted from Open Space zones

As representatives of the public interest, we want the zoning of the entirety of the Spur (35.14ha) to be “Natural Open Space” with a Designation as “Scenic Reserve”, to preserve and protect the Spur as a public scenic reserve for present and future generations to enjoy (Fig. 12).

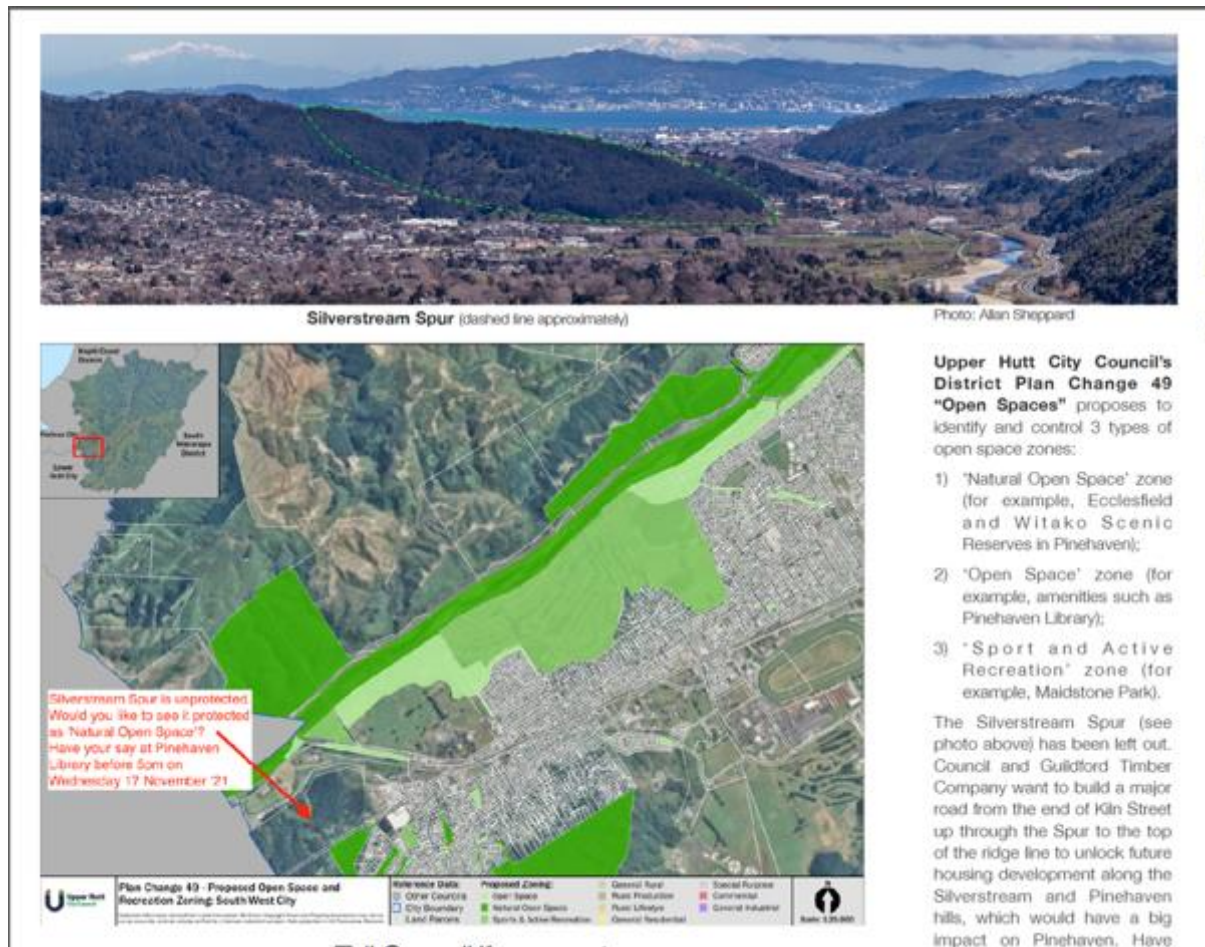


Fig. 12 - Photo of Silverstream Spur (by Allan Sheppard), and extract from PPA’s “Pinehaven News, November 2021.

Although Council left the Silverstream Spur out of Plan Change 49, the Spur has now been included in PC49 Variation 1 (Fig. 13).

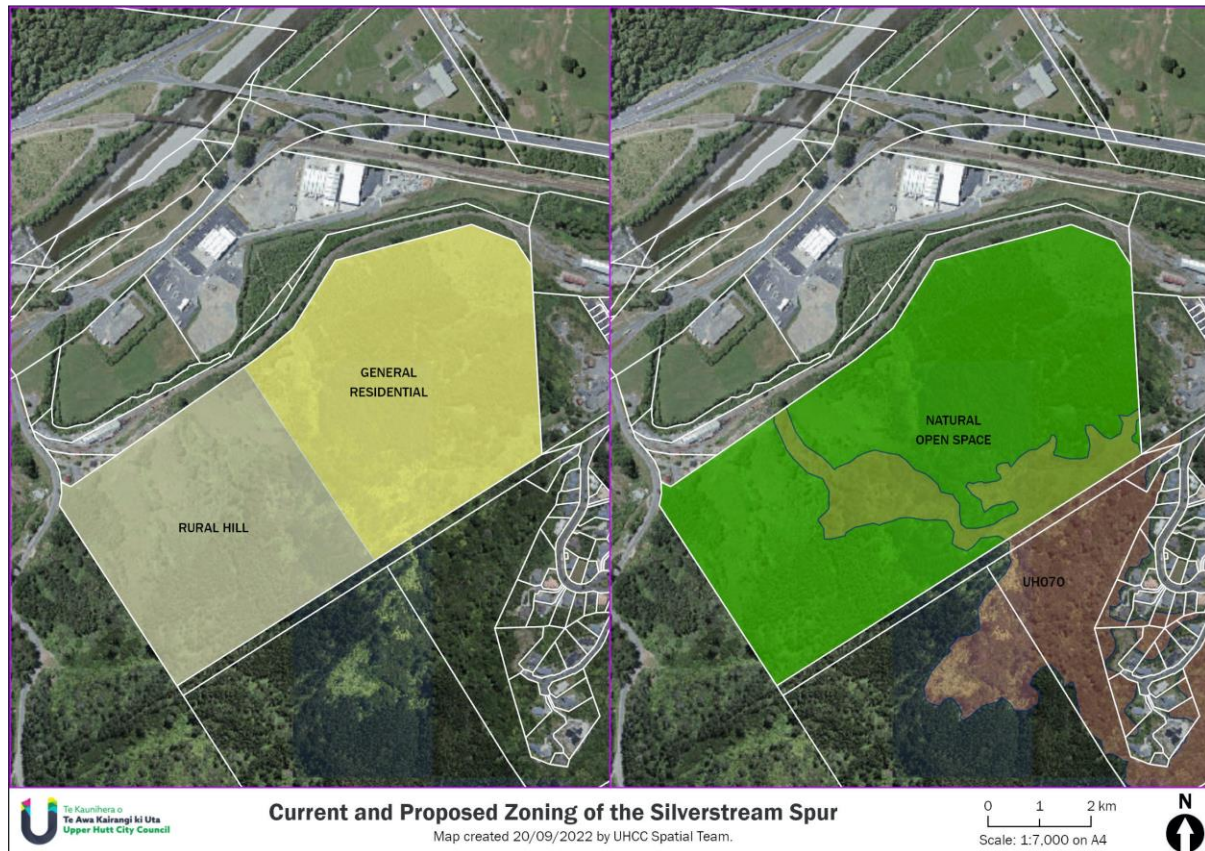


Fig. 13 – Proposed change of zoning of Silverstream Spur to Natural Open Space in UHCC’s PC49 Variation 1 – Silverstream Spur.

**Summary:**

The ‘Residential Conservation’ zone on Silverstream Spur is invalid. The Spur was originally a recognised part of Upper Hutt City’s greenbelt and was intended to be officially made a Reserve under the reserves Act 1977. The lapse of 30 years does not make the “Residential Conservation” zoning legitimate. It is appropriate for Council to take the opportunity now to rezone the entire Spur as “Natural Open Space”. SOH requests that further to this, Council also carry out now its original stated intention of making the entire 35.14ha of Silverstream Spur a Reserve under the Reserves Act 1977 and provide walking and cycling access through the Spur for recreational and conservation purposes for the public.

Council could complete the process of getting the Silverstream Spur registered as a legal scenic reserve now. As we understand it, there are five steps in this process:

1. Council may by resolution declare the Silverstream Spur to become a scenic reserve;
2. Before such resolution is passed, Council must publicly notify in a newspaper circulating in the district its intention to invest Silverstream Spur as a Reserve and call for objections in writing;

3. At the close of the 1 month consultation period Council must consider all such objections received within that period;
4. The resolution, once passed, must be forwarded by Council to the Commissioner for transmission to the Minister of Conservation, who has the discretion to decide either to cause the resolution to be gazetted or to refuse to do so;
5. The resolution comes into effect when it is gazetted.

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Consider the following:

1. The Council resolved to declare the Silverstream Spur a scenic reserve when the City Planner, Mayor, Chief Executive and City Solicitor agreed to include in Council's submission to District Scheme (Review No. 4) by way of correction to Planning Map 2 to change the zoning on the Spur "from Residential Conservation to Rural B (restricted) and record its designation as R7 (Scenic Reserve)" and on 3/3/92 notified Wellington Regional Council, Hutt City Council, Kapiti Coast District Council, Porirua City Council, South Wairarapa District Council, the Minister for the Environment, the Department of Conservation, the Hutt Valley Energy Board, the Wellington District Maori Council, Transit New Zealand and Orongamai Marae of this proposal;
2. The proposal to change the zoning on the Spur "from Residential Conservation to Rural B (restricted) and record its designation as R7 (Scenic Reserve)" was publicly notified in the Upper Hutt Leader on 10 March 1992, calling for objections in writing to be received by Council by 13 April 1992;
3. Only 4 objections to Council's overall submission were received, none of which related to the Spur, i.e. no objections to change the zoning on the Spur "from Residential Conservation to Rural B (restricted) and record its designation as R7 (Scenic Reserve)" were received by Council [see 2.8 m) and n) above]. The proposal was heard and passed by the Judicial Committee who made a recommendation that "Council resolve to allow" certain proposals in in Council's overall submission, including the proposal to change the Spur zoning "from Residential Conservation to Rural B (restricted) and record its designation as R7 (Scenic Reserve)". This was approved and adopted by Council on 18 August 1992 [see 2.8 p) and q) above]. The large number of submitters still requesting this in their submissions on PC49 and PC49 V1 provides strong indication that the public still wants Council to do this;
4. All that remains to be done now is for Council to forward this resolution to the Commissioner for consideration by the Minister of Conservation for gazetting;
5. The Minister's favourable decision would see the Spur gazetted as a scenic reserve.

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It would save a lot of expense if the above record was recognised and acted on now, sparing yet another round of consultation, and paving the way for opening up the Spur for public access and enjoyment as a scenic reserve. SOH requests that the Hearing Panel make a favourable recommendation on this issue to stimulate the action necessary to make the Spur a legal scenic reserve.

Prepared by  
Save Our Hills (Upper Hutt) Incorporated and

## **Illustrations (Figures):**

1. Public Notification of UHCC District Scheme Review No.4 in Upper Hutt Leader 24 September 1991
2. UH Leader\_1991-9-24\_p27\_Public Notification of District Scheme Review
- 3a. UHCC Proposed Scheme Review No.4\_Map 2 - Silverstream Spur – RCON
- 3b. UHCC Proposed Scheme Review No.4\_Maps Legend
- 4a. 1992-2-21\_Mr Wyatt fax to UHCC 21 Feb 1992
- 4b. 992-2-21\_Mr Wyatt re Map 2
5. UHCC City Planner letter to Mr W. S. Wyatt 25 Feb 1992
- 6a. 1992-2-26\_UHCC City Planner to Mayor, CE and City Solicitor 26 Feb 1992
- 6b. 1992-2-26\_UHCC ditto - part Map 2
- 7a. Cover letter UHCC City Solicitor 3-3-1992
- 7b. Cover letter UHCC City Solicitor 3-3-1992 contd
- 7c. Cover letter UHCC City Solicitor 3-3-1992 contd
- 7d. Letter UHCC City Solicitor 3-3-1992\_beginning of 29-page Summary
- 7e. Letter UHCC City Solicitor 3-3-1992\_26th page of Summary\_Change zoning of land on northern side of Kiln Street
8. UHCC District Scheme Review No. 4 - Summary of Submissions published in UH Leader 10-3-1992
9. UHCC Urban Maps 39 & 40
10. UHCC Urban Maps 39 & 40\_Oct 2021\_Silverstream Spur
11. UHCC PC49 map\_Silverstream Spur omitted from Open Space zones
12. Photo of Silverstream Spur by Allan Sheppard, and extract from PPA's "Pinehaven News, November 2021.
- 13 – Proposed change of zoning of Silverstream Spur to Natural Open Space in UHCC's PC49 Variation 1 – Silverstream Spur.