

Submission to Plan Change 13

DEFERRED SUBMISSION RELATING TO TWIZEL

Prepared by Ruataniwha Farm Ltd (SID 11)

1. Withdraw PC 13. It is not legally supported by the Resource Management Act.

The question of whether Council can legally justify PC13 using S.6 (b) of the RMA remains unanswered. Certainly the previous hearing raised serious doubts as to the legal backing of this plan change. These doubts were then confirmed with the extensive back downs and concessions given by both Council's Landscape Architect and Planning Officer at the conclusion of the hearing.

Without needing to go into the detail of whether PC 13 can be backed up legally in the Environment Court (see RFL submission dated 11 September 2008 for further details) we would like Council to fully comprehend that whatever course of action they choose, PC 13 is likely to financially haunt them, one way or another, to the bitter end.

We have already seen a Council directive made on the funding of additional expenditure spent on PC 13. See appendix A for a copy of the Finance Committee meeting minutes from 16 September 2008. Council have agreed to fund their budget blowout (additional expenditure) by creating a separate Capital Reserve Account, to be repaid over a ten year period by either of two methods. Either by a reduction in Council expenditure, or by an increase in the Mackenzie Districts Council's General Rate. Most likely the first option is never going to happen so the Mackenzie Districts ratepayers will need to carry the can for this ill informed, badly managed plan change.

Before the legality of PC 13 is tested in a courtroom Council still have the option to save face (and money) by withdrawing it completely. It could then put together a more workable plan change utilising all of the information that has come out of this hearing process and at the same time satisfying all of the concerns raised by local land owners. This would allow Council to satisfactorily achieve its primary goal of protecting the regions outstanding landscapes.

A previous attempt to withdraw PC 13 was made 17 June 2008 when a motion was put to the Council's Planning Committee to do so, see Appendix B. It was narrowly defeated after the CEO suggested credibility issues would result from any back down. He also scare mongered the elected members by suggesting that such a course of action would open up a raft of new resource consent applications to subdivide causing adverse effects on the environment that PC 13 was trying to prevent.

Now that the legal basis of PC 13 has been severely challenged it may well be time for Council to reconsider such a move. The same CEO who scare mongered in June 2008 also said in the Council's Planning Committee meeting held 19 February 2008 that "*if it was considered that the Plan Change was totally misconceived, the process could be halted and then started afresh*". See Appendix C.

It would appear that PC 13 is in fact totally misconceived and as such the current process should be halted and started afresh. We would like the Hearing Panel to advise Council that in order to save face and the communities money it has no choice but to withdraw PC 13. **If our recommendation is not put forward then we wish to submit on the following.**

2. Twizel Boundary with Mackenzie Basin Subzone.

We are encouraged by the Planning Officer taking on board many of the concerns raised by submitters regarding the original proposed Twizel town boundary. In the Planning Officers report dated 15 October 2008 the Sub Zone has been pushed back and this will now allow for future growth.

Areas adjoining Twizel and especially those with existing subdivision consents or habitable dwellings such as Glen Lyon Estate, Boundary Terrace, Glen Lyon Road, Ostler Road, and Hocken Lane had been included in the new Sub Zone. In theory all of its restrictive policies would have applied to these developed or consented lots, a strange consequence of the proposed plan change. As subdivision consents had been issued it is only natural that development will occur. Council cannot now say no development should occur in these areas after it has given its consent for subdivision (and therefore development) to occur. In many cases these developments are or will be fully serviced with reticulated sewer, water, phone and power. How could they have been included in the proposed Mackenzie Basin Rural Sub Zone? It is good to see common sense and logic has prevailed.

We request that the Hearing Panel accept the Planning Officers revised Twizel town boundary and encourage Council to do the same.

3. Ohau River Block exemption from the Sub Zone.

In our original submission we requested all land already consented to for subdivision by Council and land currently under consideration by Council for future subdivision (as controlled activities) be removed from the Mackenzie Basin Sub Zone. This would include all land covered by RCA's received by Council before December 19 2007. We requested that all areas involved should be included inside the Twizel town boundary.

However in agreeing with the Planning Officers revision of the Sub Zone boundary surrounding Twizel we would like to revise this request. This is in relation to the area of land known as the Ohau River Block, see Appendices D & E.

Ruataniwha Farm Ltd has a controlled activity status RCA currently with Council to subdivide this land into 50 lots. It has reached agreement with its neighbour Meridian Energy to access this proposed subdivision with a maximum permitted number of lots using Meridians access roads, this being 50.

Given it lies squeezed between the Waitaki District (Ohau River) and the proposed Manuka Terrace Rural Residential Zone (Appendix F), **it makes logical sense to expand the Rural Residential Zone to include the Ohau River Block.** Added to this is the fact that the current RCA to subdivide must be granted by Council, given its Controlled Activity status.

The Densem landscape report concludes that there are parts of the Ohau River Block that are considered highly important for the character and naturalness of this locality. It mentions specifically the Ohau River, the outlet of the river from Lake Ohau and an enclosing ridge that forms part of the Ben Ohau Range. We are confused as to the ridge referred to here. The only possible ridge would be the terminal moraine overlooking Lake Ohau which is controlled by DOC.

In any event the entire Ohau River Block has been modified in one form or another. It has been cut off from the Manuka Terrace area by the Ohau Canal. The canals construction has seen massive deposits of materials remaining on the south side of the canal forming huge banks which were not present 40 years ago. Furthermore a large part of this block has experienced a massive experimental tree planting operation significantly changing its landscape.

Even the river has been modified in that its flow immediately after the project was completed was minimal. There was no outlet from Lake Ohau with only spring water giving it some movement where it joined Lake Ruataniwha. It was not until 1991 that ECNZ, as part of a concession to be able to raise Lake Ohau by 500mm, conceded to allow a maximum flow of 8 cumecs. Four of these were granted to Fish & Game and four to the Benmore Irrigation Scheme. Prior to this the river here was similar to south of SH8....dead.

The Planning Officer raises the point that Ngai Tahu and Te Runanga o Arowhenua Waihao identify the Ohau River Block as an area of cultural value. There exists a Nohoanga site near the outlet of the Ohau River with Lake Ruataniwha. An easement has been given by Ruataniwha Farm Ltd to Ngai Tahu to access this site. A Nohoanga site is an area to gather food or other natural resources. Viewing the Ngai Tahu website confirms our opinion that nobody has to date ever visited this Nohoanga site. It is currently classified as non operative. Any development of the Ohau River Block would of course keep all easements in favour of Ngai Tahu therefore we perceive no issue should be raised by them.

We would like the Hearing Panel to take into account the above reasons as to why the **Ohau River Block should be grouped together with the new Manuka Terrace Rural Residential zone.**

4. Private Vehicle Access

Section 8.7 of the proposed Plan Change limits the number of allotments able to utilise an existing right of way and also requires turning circles for all rural, rural-residential and other zone developments. This rule change fails to take into account traffic volumes and sight distances which could ensure more than six allotments can adequately function with an access way width less than a standard public road. The requirement of a turning area assumes large volumes of traffic and seems excessive.

It also fails to understand that some private rights of way could be on sealed roads with easements having been provided to lot owners. It seems illogical that only a maximum of six lots could use such well formed roads.

Ruataniwha Farm requires this rule change be deleted.

5. Relief Sought

- (a) The Hearing Panel to advise Council that PC 13 should be withdrawn so that a better prepared plan change can be worked through satisfying all stakeholders.**
- (b) If the above recommendation is not accepted then Council must adopt the proposed Twizel / Sub zone boundary as shown in the Planning officers report dated 15 October 2008.**
- (c) The Ohau River Block be exempted from the Mackenzie Basin Sub Zone and included within the proposed Manuka Terrace Rural Residential zone.**
- (d) The concept of only allowing 6 allotments access off a private right of way needs to be dropped completely.**

3. FUNDING OF PLAN CHANGE 13

This report from the Manager – Finance and Administration referred to possible funding sources for the costs associated with Plan Change 13.

Resolved that the report be received.

The Mayor/Evan Williams

Resolved:

1. *That Council fund the additional expenditure arising from Plan Change 13 through the creation of a Capital Reserve Account and that the amount be repaid over a period of ten years using the current internal interest rate methodology.*
2. *That Council either funds these repayments through an increase in the level of General Rates or ensures that expenditure is reduced sufficiently to cover the cost of interest and principal repayments.*

Leon O’Sullivan/Dave Pullen

IV PUBLIC EXCLUDED:

Resolved that the public be excluded from the following part of the proceedings of this meeting namely:

1. Whitestone Gravel Pit
2. Property Update

<u>General subject of each matter to be considered</u>	<u>Reason for passing this resolution in relation to each matter</u>	<u>Ground(s) under Section 48(1) for the passing of this resolution</u>
1. Whitestone Gravel Pit	Commercial Sensitivity	48(1)(a)(i)
2. Property Update	Commercial Sensitivity	48(1)(a)(i)

This resolution is made in reliance on Section 48(1)(a)(i) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 6 or Section 7 of that Act, which would be prejudiced by the holding of the whole or the relevant part of the proceedings of the meeting in public are as follows: *Whitestone Gravel Pit* and *Property Update*, To protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied it, section 7(2)(b)(ii).

The Mayor /Dave Pullen

The meeting was adjourned at 10.20 am for morning tea and reconvened at 10.50 am.

3 PLAN CHANGE 13 – HEARING DATE AND PANEL MAKEUP:

This report from the Manager – Planning and Regulations referred to a proposed decision making process with respect to Plan Change 13.

The Mayor led a wide ranging discussion on the issues raised in the report and the plan change process in general.

The Committee considered the suggestion that a pre-hearing meeting be convened to talk through and explain the issues to assist submitters to better understand them. It was recommended that if a pre-hearing meeting was held, it would be wise to confine it to staff and submitters to avoid the potential for elected members to compromise themselves prior to the hearing of the Plan Change.

Ms Harte suggested that a facilitator be employed for the pre-hearing process. She emphasised that the purpose of the meeting needed to be made very clear. It was not the same as a pre-hearing meeting relating to a resource consent application at which negotiated outcomes might be achieved. The purpose of the Plan Change pre-hearing meeting would be to achieve better understanding of the issues and help submitters to become better informed.

* Cr Pullen proposed that Plan Change 13 be withdrawn and re-presented in a more simplified form excluding the Manuka Terrace and Twizel zoning issues. He circulated a series of points to support his proposal.

* The Chief Executive Officer suggested it would be detrimental to the Council's credibility if the plan change were to be withdrawn, given the time and effort already invested in the process. He also noted that the submitters would be expecting to be heard. If the Plan Change was withdrawn, in the absence of an alternative immediately being put in place, the way would be open for a tide of applications which could cause adverse effects on the environment of the same nature which the Council was seeking to avoid through the Plan Change.

He agreed that the Plan Change process would not be easy; it would be miraculous if the proposals proved to be right in every detail. He noted that the issues impinged on many people, there was high level of sensitivity and a degree of upset was inevitable.

Patricia Harte suggested a pre-hearing meeting would be particularly appropriate with respect to the Manuka Terrace area.

The Mayor referred to widespread discomfort about proposals in Plan Change 13 relating to the need for resource consents for remote farm buildings and the definitions of nodes. He supported the idea of pre-hearing meetings to promote better understanding and address misconceptions and groundless fears.

XI PLAN CHANGE 13:

In response to a request that the time frame for submissions to Proposed Plan Change 13 be extended, the Chief Executive Officer undertook to make sure that there was no legal barrier to that.



He noted that Councillors had been subject to pressure and criticism about the proposed Plan Change, and that there could be discomfort with some aspects of it. He said that if it was considered that the Plan Change was totally misconceived, the process could be halted and then started afresh. He did not recommend that course of action.

In terms of process, the Chief Executive Officer cautioned Councillors against considering that changes could be made to the proposal in advance of the hearing. He said that could leave them open to the suggestion that they had been influenced ahead of the process.

The Chief Executive Officer clarified that the Cultural Assessment which had been commissioned by the Council would be treated as a submission.

He referred to concerns about the proposed more stringent subdivision rules for the Mackenzie Basin, and said that while the bar had been set reasonably high in terms of, eg creating new nodes, that could change as the result of debate; however everyone who was likely to make a submission had yet to be heard. He suggested that response be conveyed to anyone suggesting that the proposed Plan Change should be amended ahead of consideration of all submissions.

With regard to the potential for the process to bring to light some errors in mapping or other details, the Manager – Planning and Regulations advised that a staff submission would ensure that such issues could be addressed.

Resolved that the time frame for the first round of public submissions to Proposed Plan Change 13 be extended from 12 March 2008 to 11 April 2008, subject to confirmation that it is legally possible to do that.

Dave Pullen/Graham Smith

Cr O'Sullivan suggested that, in order to diffuse concern and correct widespread misinformation and misunderstanding, it could be helpful for the Council to discuss Proposed Plan Change 13 with Federated Farmers representatives. The Mayor said he would be prepared to receive a deputation.

XII LEAVE OF ABSENCE:

Resolved that Cr Page be granted leave of absence from 26 May 2008 to 14 July 2008.

Leon O'Sullivan /Dave Pullen

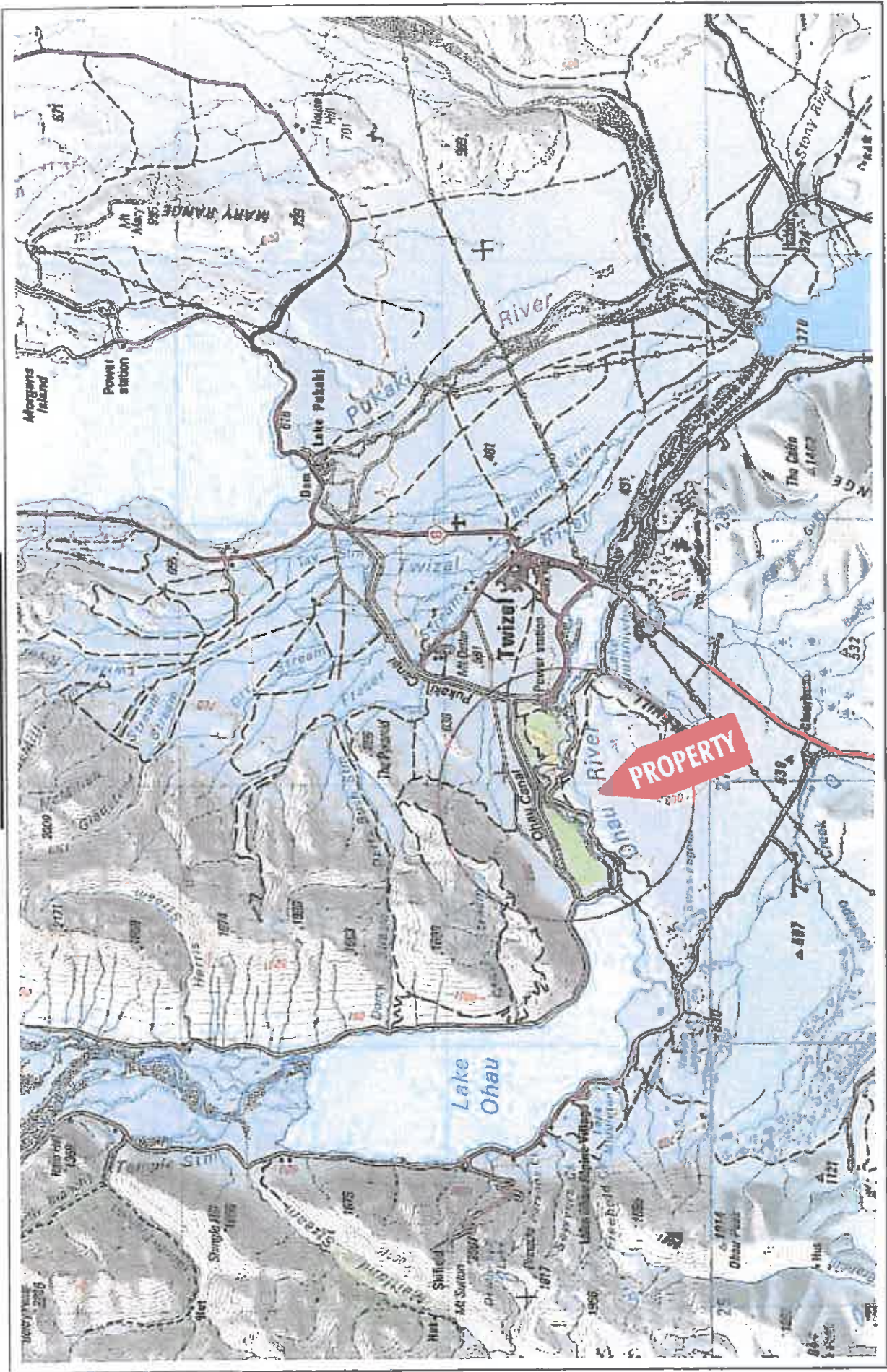
Crs Williams advised that he intended to seek leave of absence for four weeks in May/June 2008. Cr Pullen advised that he intended to seek leave of absence for the last two weeks of July 2008.

**THERE BEING NO FURTHER BUSINESS THE
MAYOR DECLARED THE MEETING CLOSED
AT 3.50 PM**

CHAIRMAN: _____

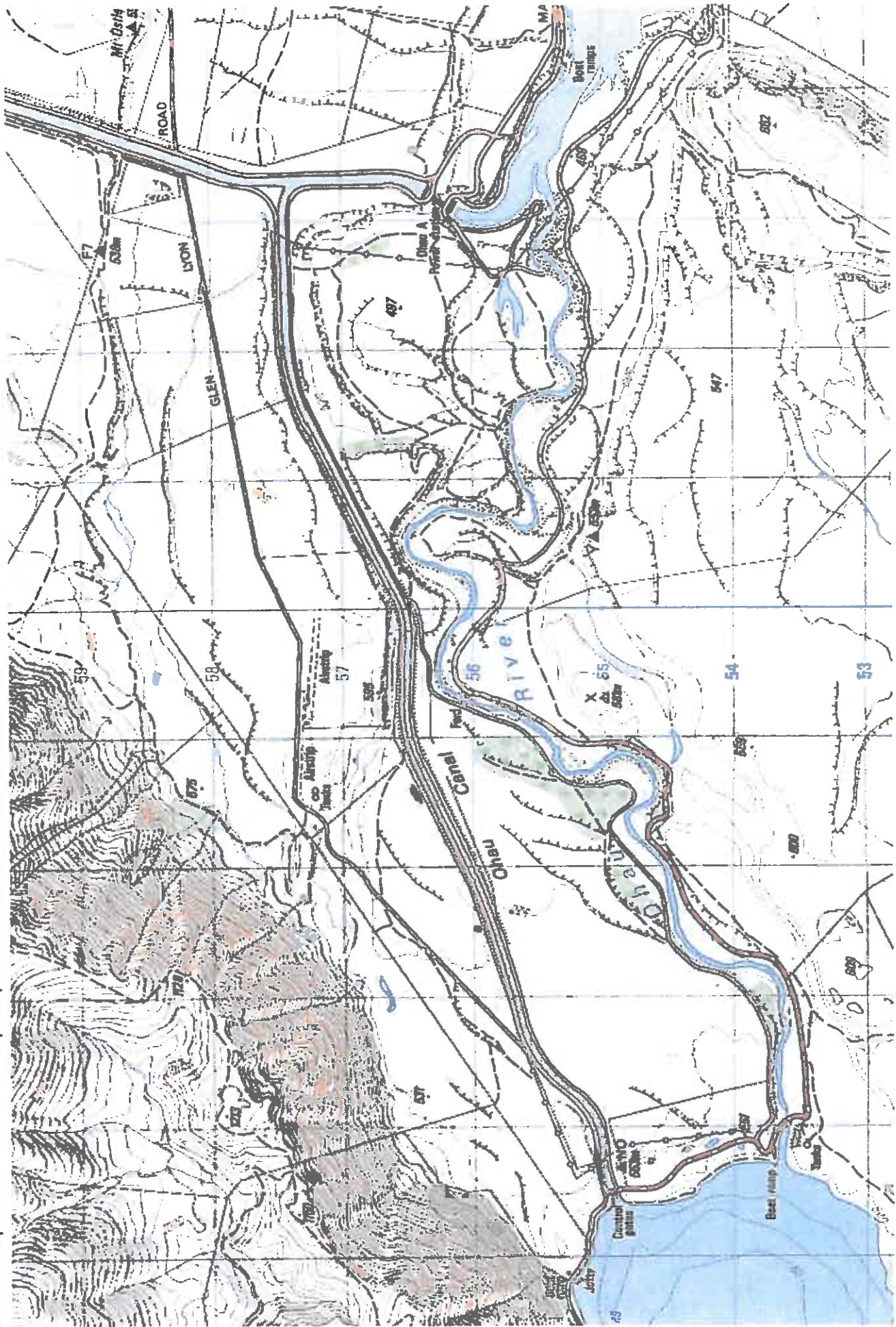
DATE: _____

LOCATION MAP



Appendix E.

ed from MapWorld New Zealand TopoMap Sourced from Land Information New Zealand data. Crown Copyright Reserved



Appendix F.

Attachment 5 Rural Residential - Manuka Terrace Zone

