Before the Hearing Commissioner Appointed by Environment Canterbury and Selwyn District Council

Under The Resource Management Act 1991

In the matter of an application by Southern Screenworks Limited for land use

consents and discharge permits associated with the extension of, and changes to, existing quarry operations at 50 Bealey

Road, Kirwee

Reply submissions of counsel on behalf of Southern Screenworks Limited

13 May 2025

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May it please the Commissioner

- The purpose of these submissions is to reply to matters raised during the hearing on Tuesday, 15 April 2025¹ in relation to applications by Southern Screenworks Limited (**Southern Screenworks**) for:
 - (a) resource consents required to extend its current quarry operations at 50 Bealey Road Kirwee (Lot 1 DP 354364, Reserve 1038 and the adjacent paper road) (Aylesbury Quarry) over Lot 2 DP 569079 and Res 4005 (extension site); and
 - (b) changes to its existing resource consents for the Aylesbury Quarry for consistency with the new consents and to provide additional operational flexibility.
- At the time of the hearing, there were very few issues remaining in contention, owing particularly to Southern Screenworks' efforts to address submitters' concerns, including via a pre-hearing meeting. As a result, only one submitter attended the hearing (Mr Coleman). There were no issues identified in the section 42A reports and only minor amendments to conditions were proposed by Southern Screenworks these were largely accepted by section 42A officers in oral evidence.
- An issue relating to section 42A officers' recommended duration of the air discharge consent was raised by Mr van Kekem in the final moments of the hearing. This resulted in an extremely late oral amendment to the section 42A author's recommendation on the duration of the air discharge consent from 35 years (per the section 42A report) to 20 years. Given that Southern Screenworks had not had the opportunity to address the amended recommendation in evidence, leave was granted to file further evidence on this matter. A further statement of evidence from Mr Bligh is therefore being filed contemporaneously.

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¹ Minute 3 required these legal submissions to be filed by 9 May 2025. An extension of time was granted to file by 14 May 2025 due to the unavailability of Canterbury Regional Council's planner to review draft conditions.

- 4 Against that background, these submissions address:
 - (a) relief sought by the submitter (Mr Coleman);
 - (b) duration of air discharge consent; and
 - (c) Screenworks' position in relation to native planting on rehabilitated batter slopes.
- The Commissioner also requested a final set of landscape plans, which are attached to these legal submissions at **Appendix A**.
- 6 Mr Bligh's reply evidence addresses the revised proposed conditions which have been discussed with the Council reporting officers. It is understood that Council officers are now in agreement with the proposed conditions.

Relief sought by submitter

- 7 Mr Coleman (153 Bealey Road) was the only submitter to attend the hearing. He addressed the Commissioner on the following matters:
 - (a) proposal for alternative bund and planting in the south-western corner of the site;
 - (b) proposal to move the existing farm access opposite 153 Bealey Road;
 - (c) proposed compensation for double glazing his dwelling; and
 - (d) reasons for the lack of complaints in relation to the existing quarry.

Alternative bunding and planting

- 8 To address Mr Coleman's submission, Southern Screenworks proposed the following mitigation measures in evidence:
 - (a) a setback for extraction of 200m from the existing dwelling at 153
 Bealey Road (and 300m on Saturdays);
 - (b) no aggregate processing in Stages 3 and 4;

- (c) a double row of planting along the south-western boundary with Bealey Road and along the boundary with 158 Bealey Road;
- (d) an 'L-shaped' bund in the south-western corner of the site; and
- (e) an additional bund and/or planting behind the existing farm gate in order to screen Stages 3 and 4 of the quarry through the farm gate view shaft.
- 9 It is understood that mitigation measures (a) to (c) above are accepted by the submitter.
- In relation to the 'L-shaped' bund, Mr Coleman advised the Commissioner that the proposed bund in the south-west corner was "neither here nor there" to him. He sought instead that:
 - (a) a bund be constructed along the 200m setback;
 - (b) planting be undertaken between the bund and Bealey Road, i.e. within the setback; and
 - (c) the existing farm access opposite 153 Bealey Road be removed, or moved to an alternate location.
- Southern Screenwork's evidence is that the 200m setback is not necessary to mitigate either dust² or noise effects,³ and with the proposed Leyland

² Mr Bluett's evidence is that a 200m buffer distance is above and beyond his experience of accepted good practice, effects at 200m away from the dwelling will be below the level provided for as a permitted activity in the Canterbury Air Regional Plan (CARP), and with the proposed mitigation adverse effects on air quality will be less than minor and acceptable at all offsite locations. (See Evidence of Jeffrey Bluett, at [115] - [116] and [157].) In response to questioning from the Commissioner, Mr Bluett stated that Southern Screenworks has adopted a "belts and braces" approach and "I am confident that we could go closer than 200m and still comply with no noxious effects on the boundary". It is further noted that the proposed discharge to air beyond 200m from Mr Coleman's dwelling is a permitted activity under the CARP.

 $^{^3}$ Mr Reeve's evidence is that in the worst-case scenario (at 200m away from 153 Bealey Road), noise levels are predicted to be 46 dB $L_{Aeq~(15~min)}$ and lower on Saturdays, and which offers "a superior level of amenity than the underlying District Plan limits". If two crushers were to operate, noise levels would increase by 2 – 3 dB at the boundary of 153 Bealey Road, which still comfortably complies with the noise limit and is below the traffic

Cyprus screening along Bealey Road and the boundary with 158 Bealey Road, landscape and visual effects will be low (less than minor to minor) without the L-shaped bund.⁴

- Southern Screenworks nevertheless offered the 'L-shaped' bund to Mr Coleman prior to the hearing for the purposes of addressing the issues he raised at the pre-hearing meeting. Unfortunately, Southern Screenworks was not advised prior to the hearing that this proposal would not be acceptable to the submitter.
- In light of the evidence of Mr Coleman and Southern Screenworks' experts, Southern Screenworks no longer proposes the 'L-shaped' bund.
- Given the expert evidence, Southern Screenworks does not accept that any further bunding or planting is required to mitigate effects relating to noise, dust or landscape. Further, the construction of the bund at 200m from 153 Bealey Road, and associated proposed planting, will inhibit the non quarry-related use (e.g., for farming) of a reasonable portion of Southern Screenworks' land. It therefore does not accept Mr Coleman's alternative bunding and planting proposal.

Existing farm access

- In relation to the existing farm access, Southern Screenworks does not accept that it is either necessary or appropriate to move that access for the following reasons:
 - (a) Ms Crawford's evidence is that visual effects will be low (less than minor to minor) from 153 Bealey Road without moving the farm

noise levels observed near that location. Even where noise from existing traffic and the quarry add cumulatively, this will change overall levels by no more than 1dB. (See Evidence of William Reeve at [38] – [39], [42] and [51].) In response to questioning, Mr Reeve advised that extraction noise would be below background noise levels most of the time.

⁴ Ms Crawford's evidence is that by the time quarry works extend into the Stage 3 and 4 areas, the proposed boundary vegetation will have formed dense, continuous hedge, which will screen views of the quarry from 153 Bealey Road and the addition of the bund is not necessary. (See evidence of Naomi Crawford, at [55].)

access. Mr Head noted at the hearing that his expert opinion is generally in alignment with Ms Crawford's opinion. The proposed bunding or planting behind the farm access will provide sufficient screening of Stages 3 and 4 and is therefore not required from landscape perspective.

- (b) Access to the farmed land in Stages 3 and 4 is required both now and in the future, and suitable access is not available from either the driveway of 158 Bealey Road or from Bealey Road adjacent to the existing quarry;
- (c) Mr Hegarty highlighted the complexities involved in obtaining approval for a new access from Bealey Road (including the possibility that a further resource consent would be required).

Double glazing

- Mr Coleman seeks that Southern Screenworks pay for his house to be double-glazed. He did not elaborate on reasons for that request. The only effect relevant to double-glazing is noise.
- As note above, Mr Reeves' evidence is that even in the worst-case scenario, noise levels received at the dwelling will provide a superior level of amenity than the district plan limits. Mr Farren supported Mr Reeve's analysis, noting that the noise levels predicted at 153 Bealey Road are "quite a lot below" the permitted activity standards and would provide "much more" favourable levels of amenity than allowed by Partially Operative Selwyn District Plan.
- 18 It is therefore submitted that there is no evidence to suggest that double glazing of 153 Bealey Road is necessary to mitigate any adverse effect and Southern Screenworks does not accept a condition requiring it to compensate Mr Coleman for double glazing.

Restrictive covenant on 23 Bealey Road

- 19 Selwyn District Council and Canterbury Regional Council have advised that no complaints have been made to the Council in relation to the Aylesbury quarry operation. Ms Bonnington's evidence is that Southern Screenworks has not received any complaints in relation to the Aylesbury quarry operation.
- 20 Mr Coleman's evidence was that one of the reasons no complaints have been made about the existing Aylesbury Quarry operation is that there is a restrictive covenant over 23 Bealey Road (the Nunn property) precluding complains.
- 21 Southern Screenworks is not aware of any restrictive covenant over 23 Bealey Road in the company's favour. Counsel has reviewed the title of 23 Bealey Road and has been unable to identify a restrictive covenant registered against that title in favour of Southern Screenworks. No evidence of a restrictive covenant precluding complaints by the owners of 23 Bealey Road has been put before the Commissioner.
- It is therefore respectfully submitted that no weight can be put on Mr Coleman's assertion that the only reason there have been no complaints against the quarry is due to a restrictive covenant precluding them.

Duration of consent

Context

23 Mr van Kekem undertook a peer review of Mr Bluett's air quality assessment for the purposes of notification. He recommended that:⁵

NZ Air considers that a duration of 15 - 20 years is appropriate and consistent with other air discharge consents of this nature.

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⁵ NZ Air peer review, 29 October 2024 at section 8.

- 24 No rationale was provided as to why that duration was considered appropriate. Nor was any further evidence provided that demonstrates consistency with similar consents or addresses why consistency is required in this particular instance.
- 25 Mr Bligh's evidence sets out his correspondence with CRC in relation to this recommendation, including:
 - (a) his request for the opportunity to address what he considered to be an inaccurate (and therefore inappropriate) recommendation; and
 - (b) subsequent confirmation from the CRC section 42A officer that a term of 35 years was considered appropriate despite Mr van Kekem's recommendation, following consultation with a CRC principal planner.
- The section 42A report outlined the principles relevant to duration from case law and, having considered the proposed duration through that lens, recommended a term of 35 years. Southern Screenworks prepared its evidence on the basis of this recommendation.
- At the close of the hearing, Mr van Kekem interrupted proceedings to state his view that the air discharge consent should be limited to 15 to 20 years. He stated that 35 years is too long and reiterated his view that a shorter duration would be consistent with other quarries in the Canterbury Region. He raised further matters not addressed in his peer review, including the need to allow for changes in health criteria and updated industry good practice, and consistency with the position of rūnanga. No further evidence was advanced by Mr van Kekem to support these assertions. A
- Mr Ryde was then asked whether he maintained his recommendation that a 35 year term is appropriate. Mr Ryde was clearly uncomfortable having to provide his view, stating that he would prefer to "dodge the issue" and let the Commissioner decide. After equivocating, he ultimately recommended

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⁶ CRC section 42A report, at [300] - [306].

that the land discharge consent should be for a term of 35 years, but the air discharge consent should be for a term of 20 years. Understandably, given the last-minute nature of the issue arising and the lack of evidence supporting this proposal available to him, that recommendation was not confidently made. It is therefore respectfully submitted that no substantial weight can be put on Mr Ryde's oral recommendation.

29 Each of the reasons for a limited duration raised by Mr van Kekem are addressed below.

Consistency with other quarry consents

- 30 Mr Bligh's reply evidence identifies a long list of quarry air discharge consents that have been granted for a 35-year period. Many of these are of a far greater intensity and scale than the Southern Screenworks' proposal.
- 31 It is therefore submitted that a limited duration is not required for consistency with other quarries in the region.

Changes to health criteria or industry good practice

- 32 The conditions of the air discharge consent:
 - (a) require that the discharge does not result in offensive, objectionable, noxious or dangerous effects beyond the boundary of the site;⁷
 - (b) require a review of the dust management plan (DMP) to be undertaken every two years and amendments to be prepared by a suitably qualified person and certified by CRC;⁸ and

⁸ Condition 16.

⁷ Condition 2.

- (c) enable CRC to review the consent conditions to deal with any adverse effects on the environment and requiring the best practicable option to remove or reduce adverse effects on the environment.⁹
- It is submitted that any changes to health criteria would inform whether the requirement to ensure no offensive, objectionable, noxious or dangerous discharge beyond the boundary is being complied with. Any changes to health criteria would also inform whether adverse effects are occurring and, if so, enable CRC to review and amend the conditions of consent if necessary.
- 34 Similarly, changes to industry good practice or technology could be implemented either via a review of the DMP itself, or the review conditions if necessary.

Rūnanga position

- Opening legal submissions of counsel addressed the Te Taumatu Rūnanga submission and the request for a 20 year duration for the purposes of preserving the ability of future generations to exercise kaitiakitanga. In summary, those submissions were to the effect that imposing a 20 year duration for this reason is unnecessary, and would be particularly inappropriate in the absence of any discussion between the rūnanga and Southern Screenworks as to alternative options for enabling the exercise of kaitiakitanga. In that regard, several offers to that effect have been made by Southern Screenworks but not taken up by rūnanga.
- While it is up to rūnanga to express how they consider themselves affected by a proposal, it is respectfully submitted that it does not necessarily follow that the air discharge consent should be limited in duration as a result of the rūnanga submission. In that regard, while decision-makers must meaningfully respond to a claim by iwi that a particular resource

⁹ Condition 33.

¹⁰ Legal submissions of counsel on behalf of Southern Screenworks Ltd (15 April 2025), at [64] – [68].

management outcome is required to meet the statutory directions in sections 6(e), 7(a) and 8, it also is well accepted that iwi do not have a right of veto and the veracity of the evidence still needs to be tested.

37 Further, the full range of relevant matters must be considered in determining an appropriate consent term. These are addressed below.

Overall submission on duration

38 The only evidence before the Commissioner which adequately assesses the appropriate duration of consents is Mr Bligh's primary evidence. In that regard, he says:¹¹

While I appreciate the view of Rūnanga in respect of duration. I consider this also needs to be considered relative to the level of effects anticipated, associated uncertainty and the likelihood of technological advances to address these, alongside the level investment proposed by an applicant. I do not consider that a reduced timeframe is necessary to bring effects to an acceptable level, with the experts concluding the effects of the activity will be no more than minor regardless of the duration sought. Bonnington has discussed in her evidence how Southern Screenworks has sought to engage with Rūnanga and is willing to undertake ongoing consultation with Runanga if they In my view, this provides a more appropriate avenue for Kaitiakitanga to be implemented than a shorter consent duration.

An unnecessarily short consent duration will, in my opinion, simply result in Southern Screenworks having to re-consent the site again at substantial cost in 20 years.

¹¹ Statement of evidence of Mr Kevin Bligh (31 March 2025), at [172] – [174].

If monitoring data warranted effects being addressed further, this would be most appropriately undertaken through a review condition under s128 of the RMA which are provided for in the relevant sets of proposed conditions

- 39 Having regard to the relevant principles from case law set out in the CRC section 42A report and the evidence before the Commissioner, it is respectfully submitted that a 35 year duration for the air discharge consent is appropriate because:
 - (a) Substantial capital investment has been made in establishing the quarry and the costs of obtaining resource consents and ongoing monitoring are also substantial. It is consistent with the sustainable management purpose of the Resource Management Act 1991 to ensure security of term for the physical resource.
 - (b) The level of adverse effects of the air discharge are low, there is no significant uncertainty as to whether the conditions will appropriately mitigate potential adverse effects, and any unforeseen adverse effects or advancements in new technologies, methods and health/environmental standards are addressed by the conditions, including the review conditions.
 - (c) The economic life of the quarry (which is at least 40 years based on maximum extraction rates, but likely to be longer depending on demand) supports a longer term of consent.
- 40 It is also relevant that the air discharge consent is only required for the diesel generators and:
 - (a) in Stages 1 and 2 for extraction between 150m and 200m from 23 Bealey Road; and

- (b) in Stages 3 and 4 for extraction within 200m from 158 Bealey Road, although these effects must be disregarded.
- In other words, an air discharge consent would not even be required for extraction after the first few months of Stage 1, until extraction reaches Stage 4 and proximity to 158 Bealey Road the effects on which are irrelevant. It is therefore difficult to see what a shorter duration is intended to achieve as, in effect, it would only be managing uncertainty as to the discharge from the diesel generator. That discharge has not been raised as an issue by any party.
- In light of the above, it is respectfully submitted that imposing a limited duration on the air discharge consent would result a somewhat bizarre outcome when the potential for adverse effects is low, consent is required for such limited reasons and, with respect to the primary issue of dust, consent is only required in relation to only a very small portion of the site.

Native planting in rehabilitation

- The Commissioner queried whether it would be possible and appropriate to plant native species on the batter slopes as part of rehabilitation. Ms Bonnington responded that Southern Screenworks could consider this.
- Mr Bligh's oral evidence was that he did not see a need for native planting as part of rehabilitation in order to address effects, and noted that the batter slope area of 12 hectares will be significant and would require water for irrigation. His suggestion was that options for indigenous planting could be addressed through future engagement with rūnanga (if they wish) and addressed through the Quarry Site Rehabilitation Plan.
- As noted in opening submissions, Southern Screenworks has consistently demonstrated a willingness to engage with rūnanga. Mr Bligh further noted that an advice note could be included suggesting consultation with rūnanga in relation to indigenous planting, which was originally offered by Southern Screenworks but was not considered necessary by the reporting officer.

- In light of Mr Bligh's evidence, Southern Screenworks does not consider that a condition requiring indigenous planting of the batter slopes is necessary or appropriate to manage adverse effects and would be overly onerous. It does not oppose an advice note, if the Commissioner considered one to be necessary or desirable.
- 47 Southern Screenworks is grateful to the Commissioner and section 42A officers for their time and efforts in considering this application.

Dated 13 May 2025

Jen Vella

Counsel for Southern Screenworks Limited

Jarvelle

Appendix A Updated Landscape Plans



SOUTHERN SCREENWORKS LIMITED AYLESBURY



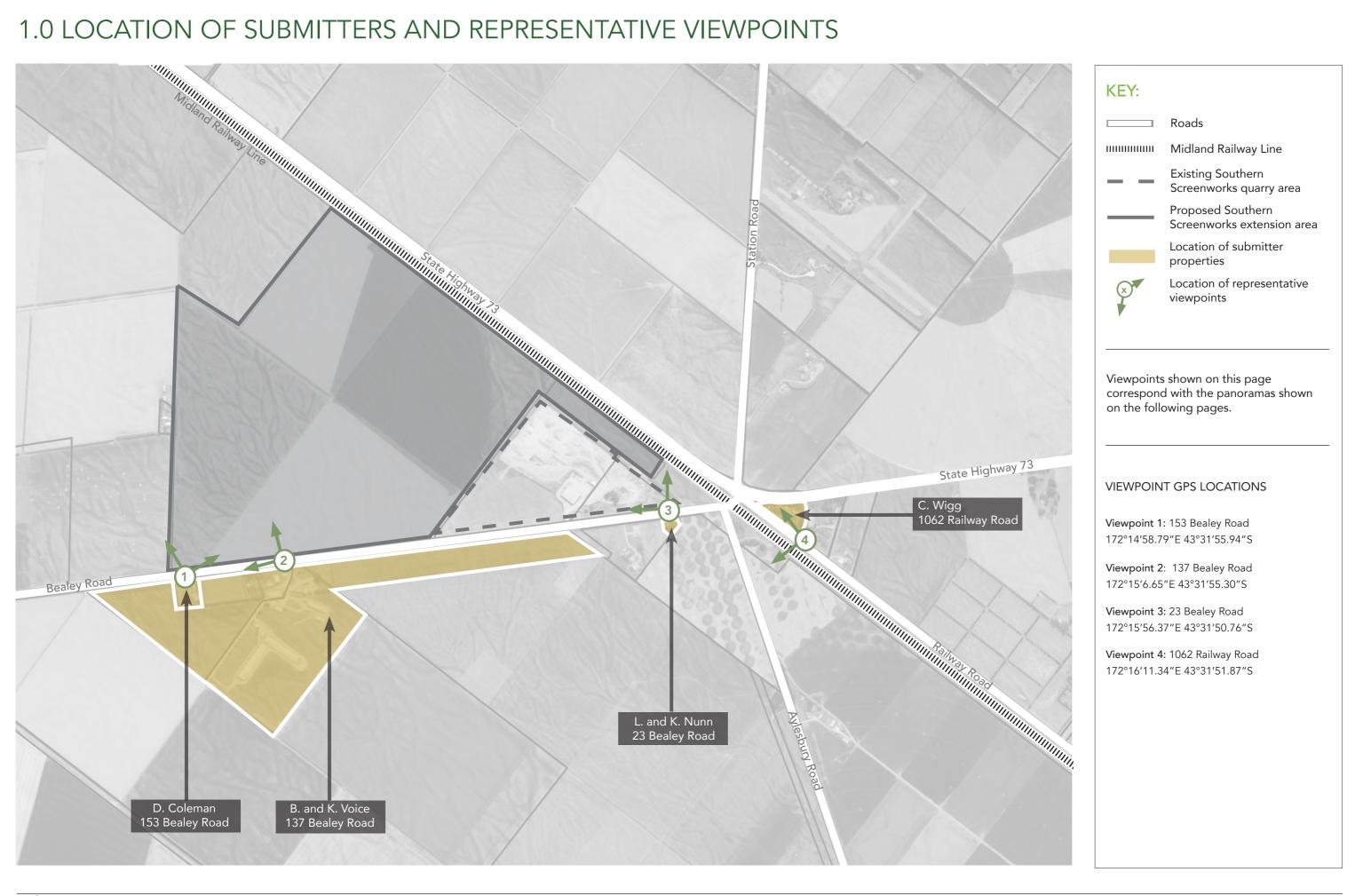
LANDSCAPE EVIDENCE ANNEXURE

APRIL 2025 - REVISION 3

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1.0 LOCATION OF SUBMITTERS AND REPRESENTATIVE VIEWPOINTS



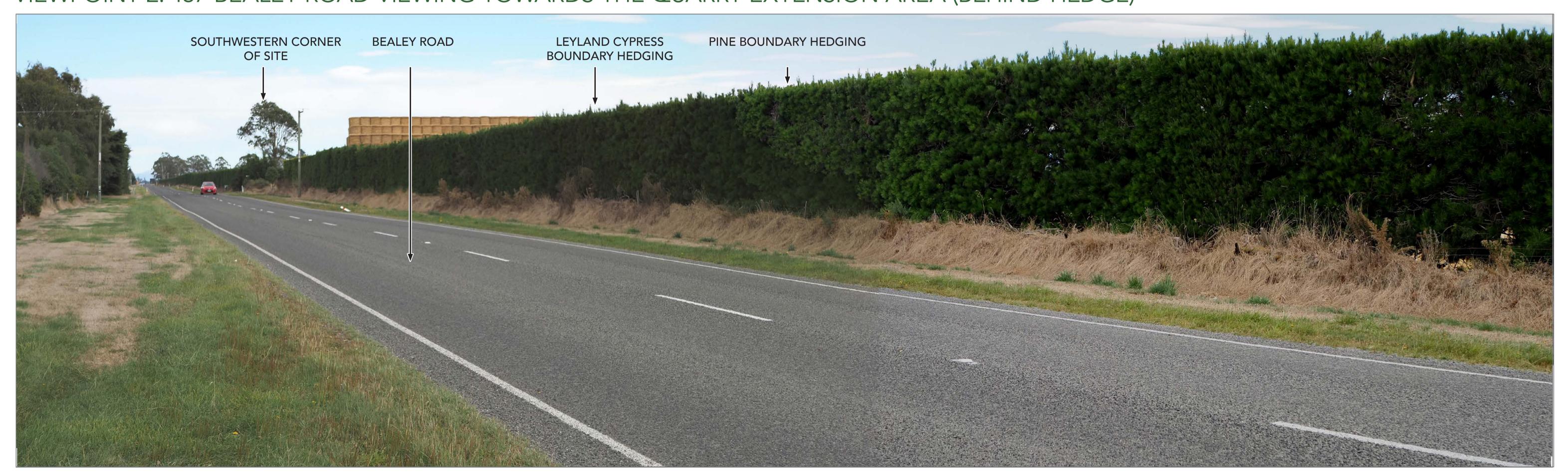
SCALE: 1: 25,000@ A3

VIEWPOINT 1: 153 BEALEY ROAD VIEWING TOWARDS THE QUARRY EXTENSION AREA



Photos to compile this panorama were taken on the 11th March 2025 using a OM System OM-5 camera with a 25mm lens (equivalent to a 50mm focal length). A1 size prints should be viewed at approx. 500mm distance from eye level. A3 size prints should be viewed at approx.

VIEWPOINT 2: 137 BEALEY ROAD VIEWING TOWARDS THE QUARRY EXTENSION AREA (BEHIND HEDGE)



Photos to compile this panorama were taken on the 7th March 2024 using a OM System OM-5 camera with a 25mm lens (equivalent to a 50mm focal length). A1 size prints should be viewed at approx. 500mm distance from eye level. A3 size prints should be viewed at approx.

VIEWPOINT 3: 23 BEALEY ROAD VIEWING TOWARDS THE EXISTING QUARRY SITE



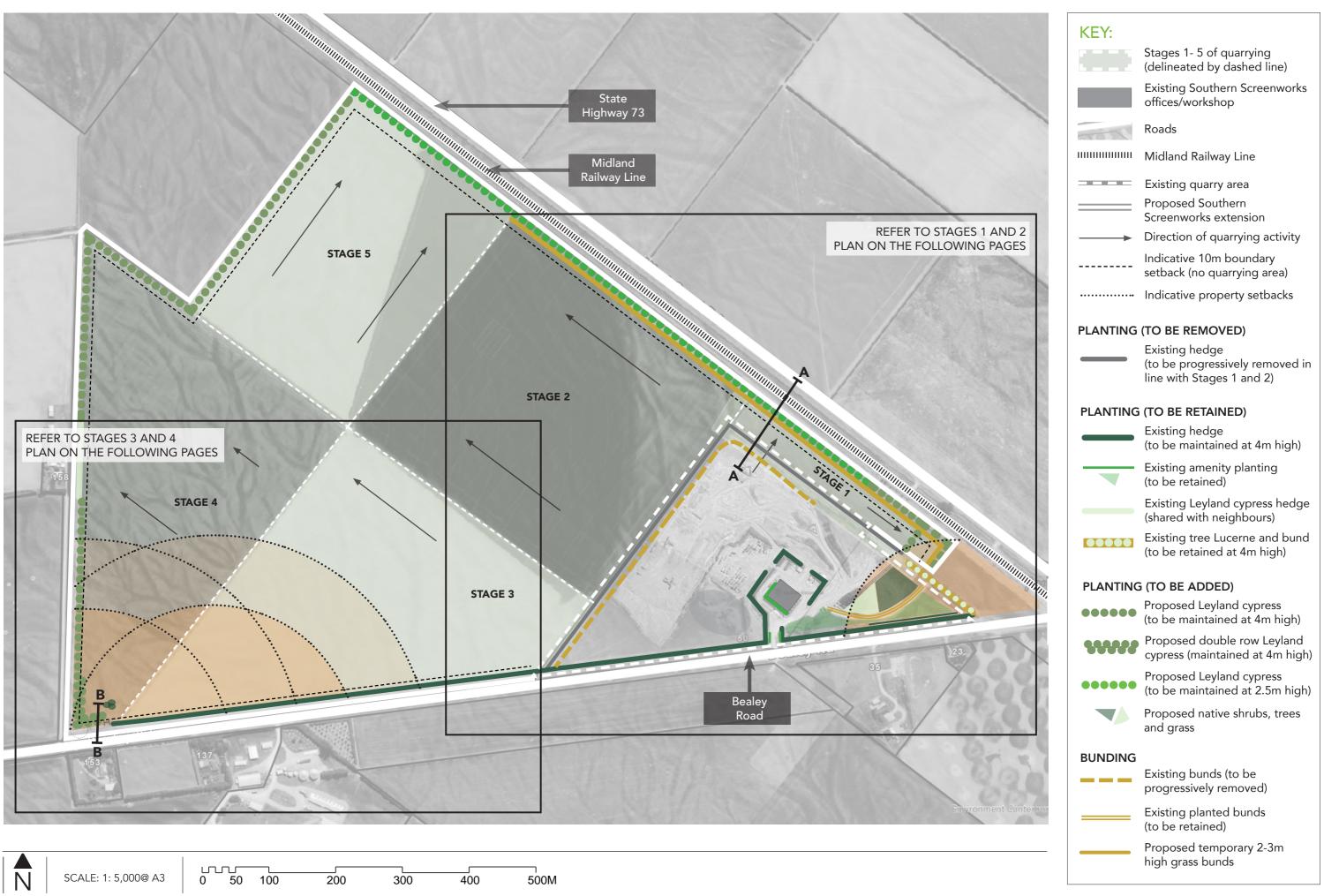
Photos to compile this panorama were taken on the 7th March 2024 using a OM System OM-5 camera with a 25mm lens (equivalent to a 50mm focal length). A1 size prints should be viewed at approx. 500mm distance from eye level. A3 size prints should be viewed at approx.

VIEWPOINT 4: 1062 RAILWAY ROAD



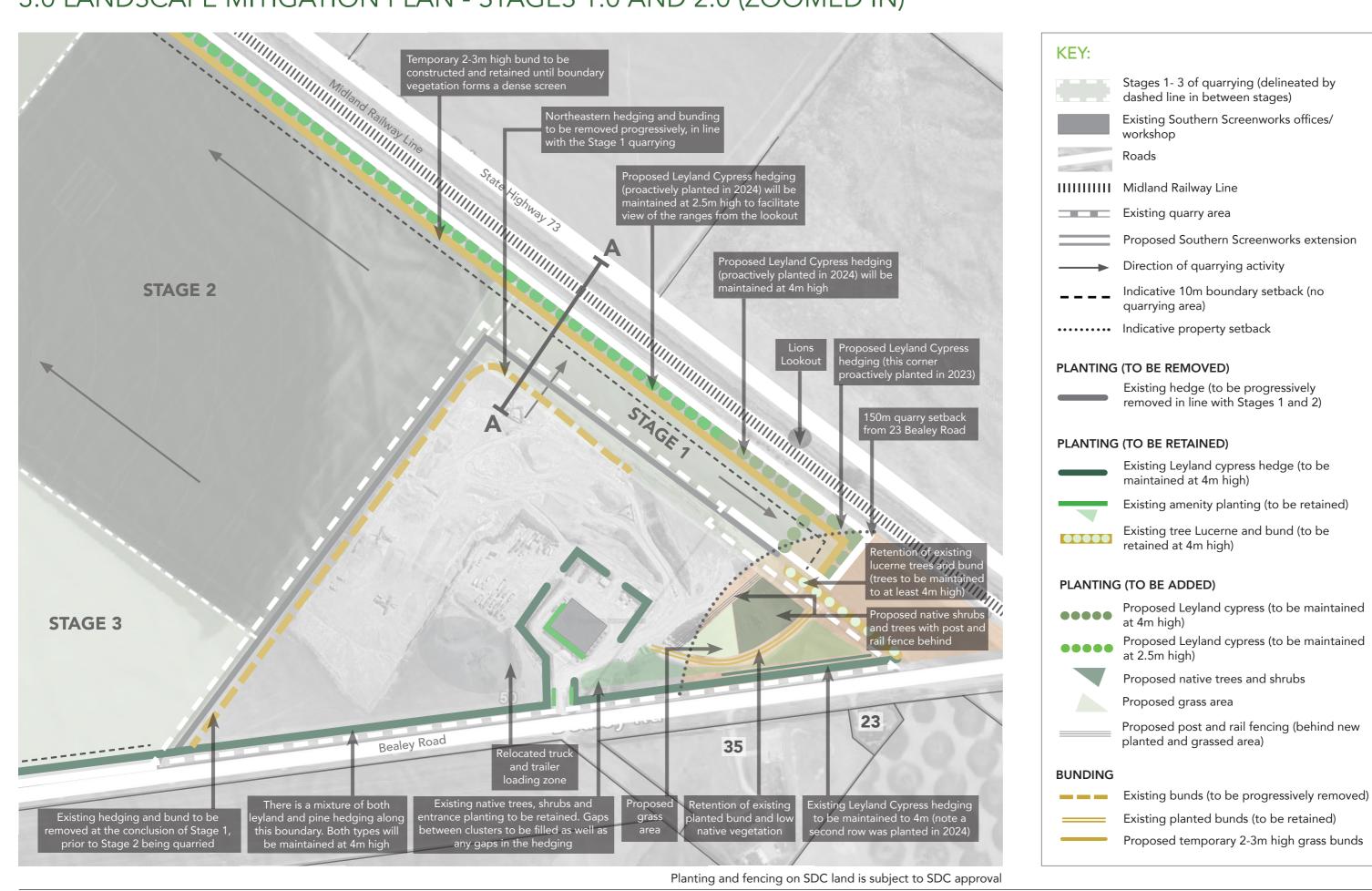
Photos to compile this panorama were taken on the 7th March 2024 using a OM System OM-5 camera with a 25mm lens (equivalent to a 50mm focal length). A1 size prints should be viewed at approx. 500mm distance from eye level. A3 size prints should be viewed at approx. 250mm.

2.0 SITE WIDE LANDSCAPE MITIGATION PLAN



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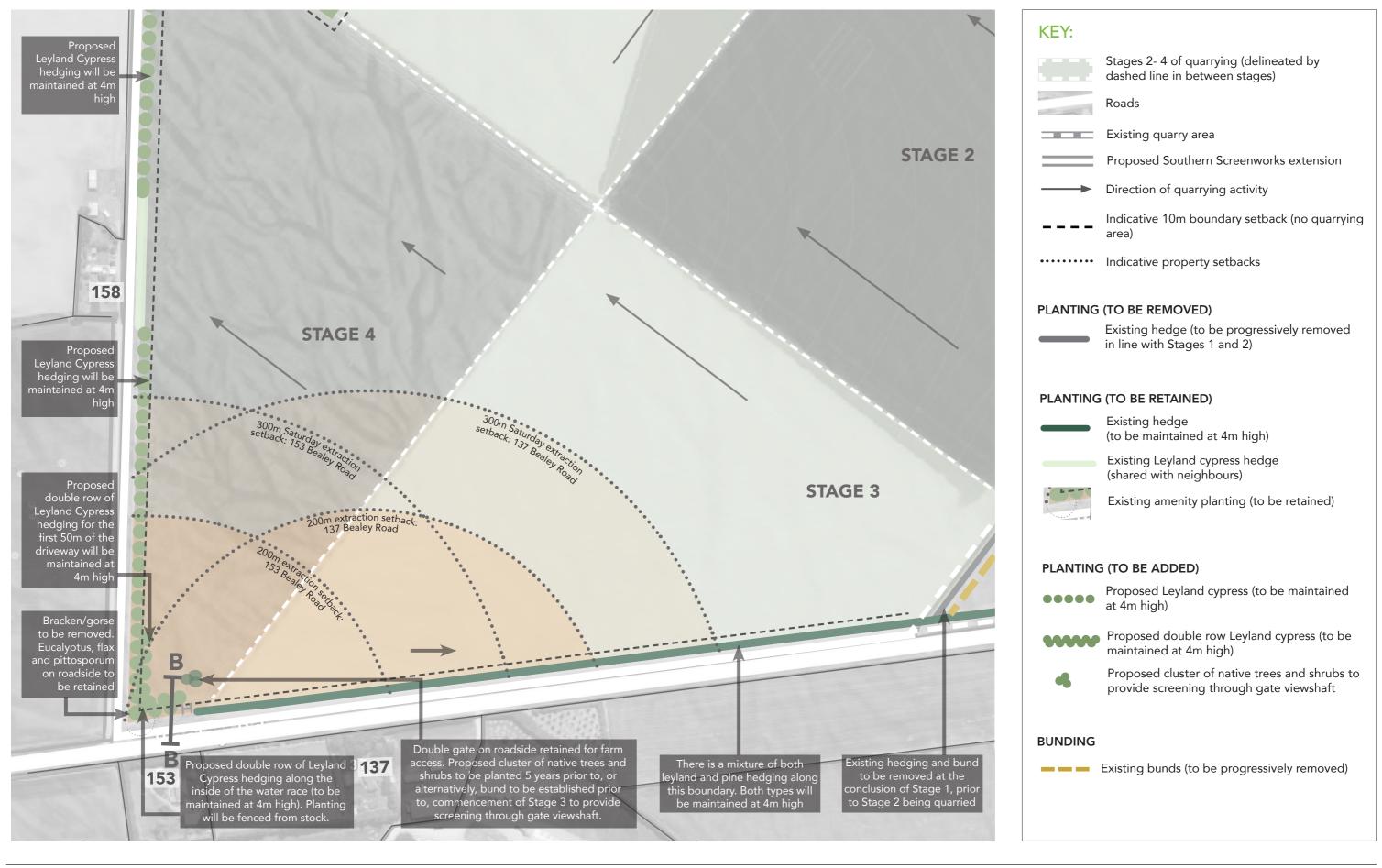
3.0 LANDSCAPE MITIGATION PLAN - STAGES 1.0 AND 2.0 (ZOOMED IN)



N 0 50 100 200 300 400 500M

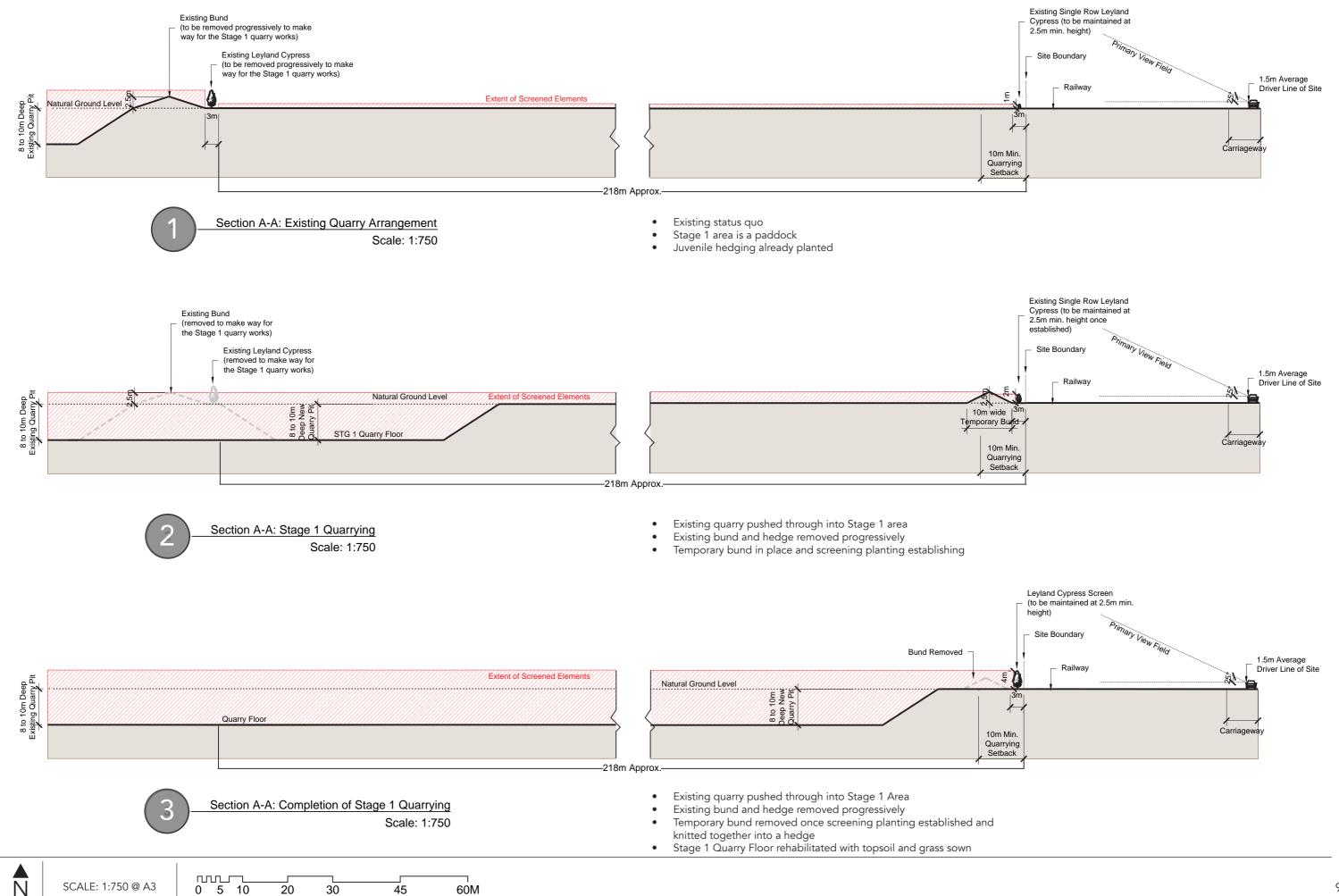
7

4.0 LANDSCAPE MITIGATION PLAN - STAGES 3.0 AND 4.0 (ZOOMED IN)

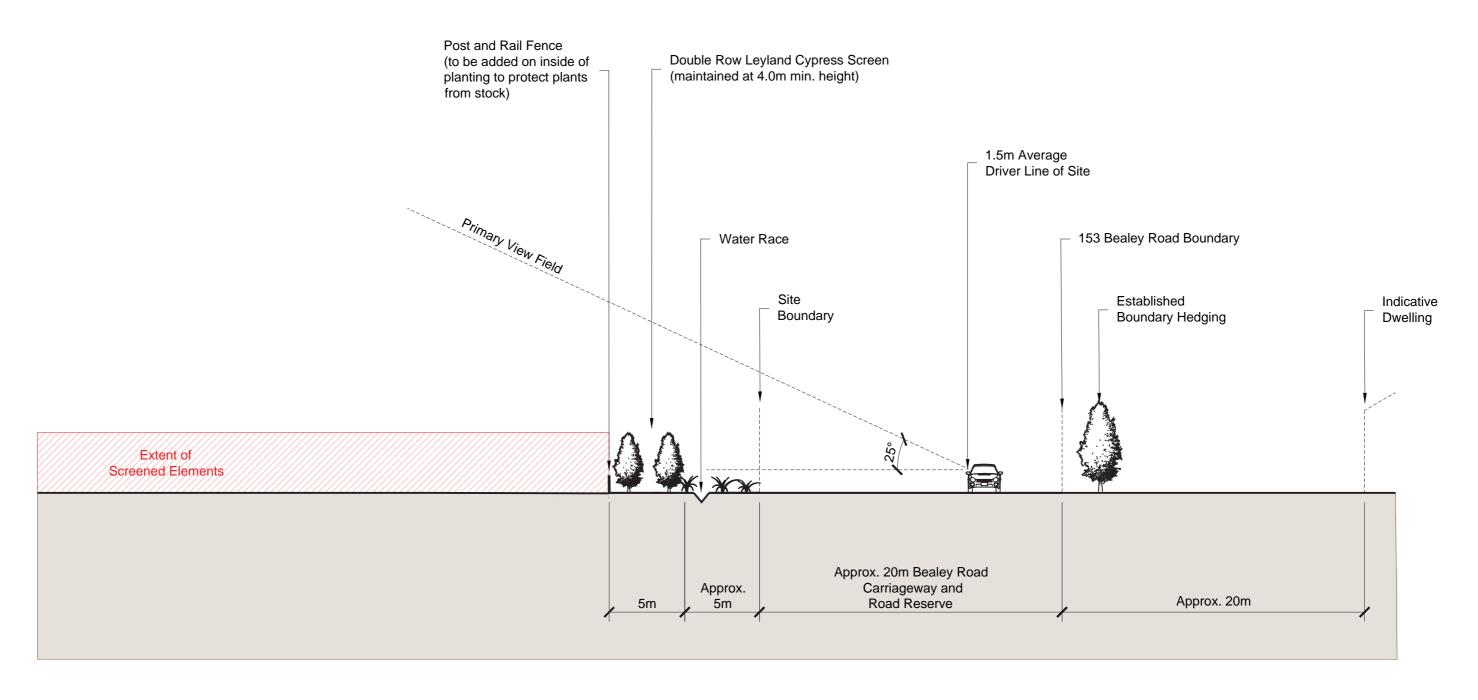


N 0 50 100 200 300 400 500M

5.0 CROSS SECTION A-A: STAGES 1 AND 2 MITIGATION SH73



6.0 CROSS SECTION B-B: STAGE 4 QUARRYING ADJACENT TO BEALEY ROAD



Section B-B: Stage 4 Quarrying
Scale: 1:250

SCALE: 1: 250 @ A3

- Proposed Bealey Road hedge is fully established by Stage 4, screening views from the road and surrounding residences
- 200m extraction setback from notional boundaries of 153 and 137 Bealey Road
- 300m Saturday extraction setback from notional boundaries of 153 and 137 Bealey Road

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