BEFORE THE HEARINGS COMMISSIONERS FOR THE WAIKATO DISTRICT COUNCIL

UNDER	the Resource Management Act 1991
AND **IN THE MATTER**	of hearing submissions and further submissions on the Proposed Waikato District Plan
AND	
IN THE MATTER	**of Hearing 25 – Zone Extents**
PARTIES REPRESENTED	**POKENO WEST LIMITED (#97)**
	CSL TRUST AND TOP END PROPERTIES (#89)

POKENO WEST, CSL AND TOP END – HEARING 25
LEGAL SUBMISSIONS

12 May 2021

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MAY IT PLEASE THE PANEL

Introduction

1. These legal submissions have been prepared on behalf to **Pokeno West Limited** (previously Annie Chen Shiu) (#97), **CSL Trust** and **Top End Properties** (#89). The issues that are common to all 3 clients are generally addressed together with a section at the end for the CSL Country Living Zone (**CLZ**). The Panel will be pleased to know, that the CSZ is the only remaining point of disagreement between the submitters and the Recommendations in Mr Meads two s 42A Reports for Pokeno.

2. Regarding the legal tests for the Plan Change deliberations, the Panel will recall that I raised issues with the Framework Report 3-lens methodology in a Memorandum to the Panel dated 4 March 2021. The Panel responded with its Minute of 15 March 2021 broadening the assessment from the lens approach proscribed by the Council in the s 42 A Framework Report recommendation. I have not repeated the legal arguments in the previous Memorandum, but I do rely on previous legal submissions and commend them to the Panel as part of its deliberations in this substantive Hearing.

Summary of Legal Submissions

3. The following general submissions are made in relation to the rezoning of the Pokeno West, CSL and Top End land from rural to urban residential activities and country living zone:

    a) The level of information provided by the Council and the submitters is more than adequate for a plan change hearing and for the Panel to be confident granting the relief sought.

    b) Recent growth has been higher than expected and the live-zoned capacity of the Pokeno West, CSL and Top End land, is required to satisfy the requirements of the NPS-UD for the short-medium term.

c) Granting the relief sought will achieve a more competitive and efficient land development market in Pokeno and make housing more affordable so that people can meet their essential needs.

d) The NPS-UD requirements for housing capacity are not “targets” but minimum “bottom lines” and the Panel is obliged to err on the side of oversupply if there is uncertainty.

e) The Panel should not put significant weight on the non-statutory growth strategies, as it is being asked to do by some witnesses/parties.

f) The concerns raised by Pokeno Village Holdings Limited (**PVHL**) do not conclude that it is unfeasible to develop and service the land to the West of Helenslee Road. The traffic and stormwater questions identified are more about “how” and “when” the land is developed, not “if” it is developed.

g) All infrastructure servicing can be provided, or the landowners will simply have to wait for consent approvals.

h) There are significant social, environmental (protection and enhancement) and economic benefits from granting the relief sought.

i) Country Living or, in the alternative, an Environmental Protection Area, is an appropriate activity for the balance CSL land that the s 42 A Report recommends remains rural.

j) The relevant RMA statutory tests in ss 31, 32, 75 and Part 2, are satisfied.

Background to Submissions

4. As the Panel will be aware from the submissions, Sir William Birch, who needs no introduction, prepared the original submissions for the landowners at Pokeno West and, with James Oakley (Planner) has coordinated the supporting evidence for Pokeno West, CSL and Top End. Regarding the Pokeno West property, identified as the "Munro" block by many witnesses, the submission is in support of the Proposed Plan, because the Council notified the zone change from Rural to Residential after undertaking an appropriate level of analysis.

5. There has been some criticism in submissions and evidence from PVHL, of the live zonings proposed and sought for Pokeno as a whole. However, additional investigations by the s 42A Framework Report writers, and their technical advisers (Dr Davey and others) and the s 42A report writer for Pokeno rezoning extents, Mr Mead, has only further reinforced the justification for rezoning from rural to urban activities for the land West of Helenslee Road.

6. As is to be expected, the merits of the various zoning applications for Pokeno, as a whole, will be different. While PVHL's concerns may be valid regarding some areas that are not well supported with evidence, that is certainly not the case for the land belonging to the clients I represent.

7. Regarding the CSL and Top End properties, it is understood from Sir William that these owners initially approached the Council about re-zoning and it was a Council officer who suggested they could work with Sir William, and the Pokeno West property, to develop a comprehensive and integrated catchment-wide planning approach for the land to the West of Helenslee Road. This has largely been achieved, with subsequent stormwater and other modelling and investigation to be undertaken at the subdivision consent stage, in the usual manner, as outlined in the engineering evidence of Mr Moore.

Properties Outside the Plan Change

8. There are two smaller properties whose owners have not participated in the process to-date, as identified by Mr Mead, but it is understood that they are not opposed to their land being up-zoned. Mr Oakley has been

in discussion with the owners and is arranging to meet and he should be able to update the Panel on the outcome at the Hearing.

9. It is logical from a planning perspective for their land to be included in final urban zone recommendations. They clearly have an interest greater than the public generally in the Decision and could join any appeals as s 274 parties if they oppose the outcome of the deliberations. Otherwise, if included in the rezoning they stand to obtain a significant benefit without having expended any resources on the process, so I cannot see any basis for complaint.

10. It would of course be highly prejudicial to my clients if their relief were denied simply because these properties were omitted by the Council in its original proposed plan, and the owners did not make any submissions. A significant effort has been put in by my clients to assist the Panel with robust evidence upon which to base its deliberations. The tail should not wag the dog.

PVHL Concerns Are Addressed

11. The concerns of PVHL appear to be adjusting during the course of the Hearings process and from its original submission and Opening legal submissions (subject to what it presented in this Hearing). These were very targeted against development of land to the West of Helenslee Road. More recent evidence has broadened to a wider argument that questions the capacity required to service growth in the next 10 years for Pokeno as a whole.

12. Regarding Pokeno West, the main concern appears to now be about "how" development would occur (refer to the summary statement of Mr Munro) and "when" (timing issue), rather than outright opposition to urbanization, or "if" development should occur. PVHL originally sought a deferral of the consideration, or a FUZ zone, for the land to the West of Helenslee Road, but this position is clearly no longer sustainable, if it ever was. It has been outflanked by strong growth over the past 2-3 years and the mandatory capacity requirements of the NPS-UD 2020 to provide a minimum of growth for 10 years. A FUZ zone is not "plan enabled" so

cannot be counted towards “sufficient development capacity” under the NPS-UD (e.g. clause 3.2).

13. Any delays to live zoning, for my clients land, that may be advanced by PVHL in this Hearing is strongly opposed. It would add years to the time before the land could be used for much needed affordable housing, especially if a structure plan process were first required as recommended by the Council s 42A Report. There is every prospect that if not live-zoned as part of this Hearing process, the live zoning could become entangled with RMA reform, recently announced local government reform, and 3 waters reform. Such delay would not give effect to the NPS-UD and not enable people to provide for their social, cultural, and economic well-being.

14. It is clear from the PVHL witness evidence before the Panel that they have not managed to identify any substantive technical or planning issues that preclude rezoning, of the land to the West of Helenslee Road at least. There is no basis for outright opposition to development on this land and the Panel has been presented with no more than run of the mill queries about traffic intersections and widening, stormwater pond areas etc. PVHL has provided no substantive and detailed evidence upon which to decline the live zoning relief sought.

15. However, there may be some grounds for their concerns as applied to other less meritorious requests for rezoning. For example, Mr Edwards raised a question about cross connections for any new zoning to the East of SH1, and that may be an appropriate question to address.

16. Regarding the rezoning for Pokeno West, CSL and Top End, Mr Hills is quite clear in his conclusions that traffic servicing can be provided. He does not deny the benefits of further modelling and analysis, but rightly concludes that the best time for that is once zoning is determined, as was often the case for the AUP re-zoning exercise. His key finding is that the threshold of traffic servicing being “feasible”, also referred to by Mr Edwards (EIC par 1.8), can be met for land West of Helenslee Road.

This Is Not a Subdivision Consent Hearing

17. In my submission, there is no basis to reject, or defer (with a FUZ), the relief sought at West Pokeno due to an allegedly inadequate amount of supporting information (as originally sought by PVHL). This is especially so considering the relatively sparce, if non-existent, evidence of other submitters seeking rezoning. A plan change is a higher order planning process that is intended to, for example, identify land that may be ruled out for a significant strategic reason, e.g. it is in a hazardous flood plain, high natural character area, or large significant ecological area.

18. For example, it has been suggested that up to 6 ha of stormwater mitigation ponds may be required in the wider Tanitewhiora catchment (EIC from Ms Paice for PVHL). That may prove to be correct, but it is not a justification for the rezoning to be rejected, and to her credit, Ms Paice does not suggest that zoning should not occur (par 2.7).

19. Sometimes indicative infrastructure and green space locations are identified in a master plan/plan change, but usually this is left to the detailed design at the consenting stage, once the zoning is known, and when detailed modelling and engineering investigation is appropriate. It is not necessary for the Panel to identify every bit of "green infrastructure" or any other type of infrastructure, at the zone change stage.

20. In the Best Practice Approaches for Re-Zoning (IHP – Report to Auckland Council – Changes to RUB, rezoning and precincts – July 2016), that the s 42 Framework Report writer encouraged the Panel to follow in these Hearings, the availability of infrastructure was included as follows:

> *3.3 "Where moving the RUB results in rezoning, the provision of infrastructure is feasible."*

21. This is an appropriate test for these Hearings. Even the witnesses for PVHL have not claimed that it is "infeasible" to service the land to the West of Helenslee Road. The submitters witnesses have proven that servicing is "feasible", and the details will be developed once the zoning is known and final design and planning can be undertaken.

22. The NPS-UD also recognises that the integration of landuse and infrastructure may sometimes be uneven, and specifically provides for "out of sequence" development from the planned release (Policy 8), in my submission including where an un-serviced area may be bypassed, such is the importance of the key objective of enabling development.

23. Other than that, because it is just a zone change, and therefore, layout and yields for development etc are only indicative, it is essentially a landowner/developer risk/cost, if at the resource consent stage, for example, detailed geotechnical investigation reveals that an area is too unstable to build on. Such land could become a park, or stormwater facility, and these are still "urban uses" that are part of urban zones. For the avoidance of doubt, the geotechnical work undertaken (Fraser Walsh) does not preclude urban live zoning, while recognizing that more detailed and site-specific work will be required in the future.

24. The Panel can be assured that the robust technical evidence, from both the Council and my clients, surpasses the information requirements for a zone change. PVHL, and its witnesses, at least regarding proposed development to the West of Helenslee Road, have failed to property distinguish zoning decisions from subdivision decisions, when their questions (to the extent they are legitimate) would be answered.

25. Carefully reading of PVHLs technical evidence reveals that no opinion is expressed that the residential use of the submitters land is incapable of avoiding, remedying, and mitigating significant adverse effects. The Panel will see that the witnesses for my clients, e.g. Mr Moore and Mr Hills, have clearly articulated conclusions that there at no technical servicing reasons why the land cannot be live zoned for the uses sought. It is not appropriate for PVHL to demand a subdivision level of information in a plan change hearing.

PVHL Historical Interest in West Pokeno

26. PVHL had previously disclosed in evidence and submissions that it had a prior interest in the Pokeno West land. The consortia that are now developing the PVHL land apparently previously considered developing Pokeno West and undertook some investigations over the properties. In

my submission this history is irrelevant to the matter for determination by the Panel. Just because a block may have been considered by one party and then rejected, this is irrelevant to the criteria under the Act, and the superior planning instruments that the Panel will have to give effect to in its determinations.

27. However, this does point to the potential motivation of PVHL in opposing this development. As outlined in the evidence of Mr Thompson, PVHL has benefitted financially from being almost a "monopoly" developer of sections at volume in Pokeno for nearly a decade. It is also running out of capacity to supply sections. Yes, PVHL no doubt regrets not purchasing the land belonging to my clients in order to continue its development and try and perpetuate its monopoly into the next decade.

28. To-date, its negative "spoiler" approach in this submission and hearings process, has been to vigorously oppose the urbanization of land to the West of Helenslee Rd, and brief witnesses, no doubt at some cost, to try and identify alleged "issues" with the rezoning's proposed (residential and CLZ). Its evidence does not withstand scrutiny and to indulge PVHL's monopoly would be contrary to purpose of the NPS-UD to have a competitive and well-functioning land development market (Objective 2). To give effect to the NPS-UD, as the Panel is required to do (s 75), the submissions and evidence of PVHL must be rejected, if they continue to oppose the submitters relief.

Legal Tests Satisfied

29. As indicated in my memorandum, the Framework Report Lens 1 approach has no statutory foundation and Lens 2 is most reflective (but not entirely) of the statutory requirements for the assessment. I will not outline the relevant legal tests to the Panel, as they will already be known, and I generally concur with the "Checklist" in Appendix 1 to the Opening Legal Submissions of counsel for the Council (23 September 2019) based on the *Colonial Vineyard* case.

30. As per my previous Memorandum and important section that is not in the Checklist, and is of some import is s 31(1)(aa):

> *31 Functions of territorial authorities under this Act*
>
> *(1) Every territorial authority shall have the following functions for the purpose of giving effect to this Act in its district:*
>
> *(aa)*
> *the establishment, implementation, and review of objectives, policies, and methods to ensure that there is sufficient development capacity in respect of housing and business land to meet the expected demands of the district:* (emphasis added)

31. In accordance with the NPS-UD, and the capacity evidence of the Council witnesses and Mr Thompson, including his rebuttal to the evidence of Mr Colegrave for PVHL, the residential zonings that my clients are seeking are necessary to ensure that the Council performs its functions under s 31(1)(aa) of the Act.

Rezoning Gives Effect to the NPS-UD

32. Under s 75 of the Act the zonings at Pokeno sought by Pokeno West, CSL and Top End, are required to "give effect" to the NPS-UD. The zonings must also "give effect" to the WRC-RPS but it is not be noted that the RPS provisions were developed before the NPS-UD, and before the requirement of regional councils to ensure sufficient capacity under s 30(1)(ba), that has the same directive wording as s 31(1)(aa) cited above. Therefore, if the Panel found there was any inconsistency between the NPS-UD and the WRC-RPS, in my submission the NPS-UD should be afforded the most weight.

33. For the reasons set out in the evidence of Mr Thompson and Mr Oakley in particular, all of the live re-zonings sought are required to meet the capacity requirements in the NPS-UD. At the highest level the 2 key objectives are:

> ***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.*
>
> ***Objective 2:*** *Planning decisions improve housing affordability by supporting competitive land and development markets.*

34. There is a demonstrable demand for housing in Pokeno in different market segments, but particularly at the affordable end, for both families and other people on limited incomes. It is clear from the evidence that there has not been a competitive market within Pokeno for many years. As is common in Auckland, a dominant developer controls the lions share of the supply, so if you want to buy a new house in Pokeno there is really only one supplier of house and land packages. This is not a competitive market.

35. However, this Panel has the "opportunity" to change that. I use inverted commas, because legally it is more of a "requirement", in order to meet the statutory tests in the NPS-UD. As outlined by Mr Thompson and Sir William, if the relief sought by my clients is granted, 3 new suppliers of development land would enter the market West of Helenslee Road alone. If other areas, including Havelock Village, are added then a real choice of suppliers of housing will become available, and achieve the "competitive" development market the NPS-UD requires. Accepting PVHL submissions and evidence, if they continue to oppose the submitters relief, would not give effect to the higher order statutory requirements, including s 31(1)(aa) and s 32 of the Act.

36. To their credit the technical advisers and s 42A Report writers for Pokeno have progressed their analysis significantly over the past 2-3 years regarding capacity assessment. This is an entirely appropriate response to the much higher than expected growth and demand over the past couple of years, and a genuine attempt to understand the requirements of the NPS-UD and, most importantly, implement them. The areas of land now supported for re-zoning have been increased accordingly.

37. The main concern that my clients have with the generally agreed approach of Dr Davey and Mr Mead is the way in which Mr Mead approaches the requirement to supply enough capacity for the medium term of 10 years. In my view, his approach to the requirement is to treat it as a "target" in that an exact amount of land should be supplied based on estimated demand and density/yield, and no more. With respect, this is not the approach that is supported by Dr Davey and Mr Thompson, nor the NPS-UD.

38. The NPS-UD makes it clear in my view that the requirement for 10 years capacity is not a target, as if it is a finite point, but that it is a minimum. Contrary to the approach of Mr Colegrave for PVHL, the NPS-UD requires decision makers to err on the side of over-supply rather then undersupply. The approach by Mr Mead, of a fine grained assessment, misses the objective, and overly relies on estimates and forecasts that are inherently only a "best guess".

39. This is no doubt why the NPS-UD uses the term "housing bottom lines" to require a minimum amount of provision rather than the word "target", which does not appear in the Policy at all.

40. It is also correct that it should be assumed that only about half of plan enabled capacity will be converted into actual development, for the reasons outlined in the evidence of Mr Thompson and Dr Davey. Land owners cannot be compelled to develop (currently at least), land development is complex and expensive, and underutilization needs to be factored into capacity calculations.

41. The overall message is that the Panel should err on the side of over provision of plan enabled capacity rather than under provision, if after hearing evidence, it has any doubt as to where if should land. While PVHL would no doubt like the Panel to adopt the phrase "if in doubt, cut it out" the NPS-UD actually requires the opposite.

42. The alleged risks and costs of over supply e.g. for infrastructure investment, from the evidence of Mr Colegrove are overstated. As Mr Thompson pointed out in Rebuttal, the % of investment in infrastructure is a modest amount compared to the economic benefits of growth. If infrastructure is a limiting factor, developers will have to enter agreements to fund works or their consents will not be granted. The power remains with the Council and infrastructure providers, and anyone who suggests otherwise, has never been in negotiations with agencies such as Watercare.

43. Finally, and as a note of caution to the Council, and with a strategic eye to the South:

(a) considering the previous Minister of Housing was advocating for the abandonment of all metropolitan limits to free up land for housing,

(b) the Government is looking at ways to force earlier compliance with the NPS-UD,

(c) local government reform has been announced, and it will inevitably reduce the number of local authorities (the current Government default appears to be to amalgamate and centralize),

(d) three waters reform is underway (which will undermine the functions/viability of smaller authorities), and

(e) nationally, the Auckland – Hamilton spatial corridor has been identified for growth by Central Government (e.g. recent rail investment needs to increase patronage to reduce subsidies),

with respect, this is not the time to undersupply live-zoned land for housing and business. This planning process, under the jurisdiction of the Waikato District Council, is an important opportunity, and one of the first under the new NPS-UD, to implement the critical agenda of trying to provide affordable housing for all the District's residents.

Rezoning Gives Effect to the WRC-RPS

44. For the reasons set out in detail in the planning evidence of Mr Oakely, the relief sought "gives effect" to the WRC-RPS and Section 6 provisions in particular. Pokeno is an established village in a strategically important location, and it is appropriate for it to be a growth node in the Region. The residential live zoning sought has provision for medium density housing and this is supported by my clients. This will achieve a compact urban form and help to ease pressure for development in locations of the Region and District that are not so well serviced.

45. Ms Foley for the WRC has expressed some concerns about the amount of green fields capacity provided at Pokeno and requests that the CSL/Top End re-zonings be rejected. She relies on the fact that these areas were

not shown in Waikato 2070 for urban activities and on Section 6 of the RPS (at par 3.7 of her Rebuttal). She is a supporter of the 3-lens approach (par 3.13). In response it is noted that:

(a) The minimum capacity requirements of the NPS-UD take precedence over the RPS and non-statutory strategies.

(b) The 3-lens approach to assessment if not legally sound for the reasons previously outlined.

(c) The level of analysis undertaken for the high level non-statutory growth strategies cannot be compared to the detailed Pokeno specific analysis that has been undertaken for this Hearing process.

(d) The work by Dr Davey, Mr Mead and Mr Thompson, has discharged the burden of proof (for a plan change hearing) that the land to the West of Pokeno is required to be live zoned now to meet higher order statutory requirements.

46. With respect to the invitation by Ms Foley to reject the CSL and Top End land rezoning (her Table 3.1) based on the Future Proof 2017/Waikato 2070 strategies, that do not implement the NPS-UD, and were developed with less information and without the rigor of a contested RMA process, my advice would be to: “pass”.

Non-Statutory Growth Strategies

47. If is correct that under s 75 of the Act the Panel can have regard to growth strategies prepared outside the RMA process, but it is not required to “give effect” to them in the manner that the NPS-UD and the RPS are to be implemented.

48. The planning witness for PVHL (Mr Scrafton) in his Primary evidence and Rebuttal has hinged his argument against urbanization of land at Pokeno on a preference for the demand forecasts in Future Proof 2017 (2,300) rather than Waikato 2070 (5,250) (Rebuttal par 2.8). He then goes on to repeat the erroneous comment from Mr Colegrave that there is *“very little*

supporting information to support or justify the 130% increase..." (the 2070 figure).

49. As pointed out by Mr Thompson, this allegation is simply not correct, and it appears that they have not fully appraised themselves of the detailed demographic and growth technical reports undertaken by Professor Cameron and Dr Davey that were relied upon by Mr Mead in his recommendations. As outlined above, the revised forecasts are derived from actual recent growth trends, notwithstanding arguably suppressed demand, due to land shortages and therefore higher prices, and the NPS-UD requirements.

50. Based on his own reporting on the Future Proof 2017 strategy the weight that Mr Scrafton elevates it to, in these proceedings, is misplaced. In his Primary Statement he notes that Future Proof is being developed in 2 phases and has only undergone phase 1. Phase 2, critically for this Hearing:

> *"…is noted as addressing the requirements in the NPS-UDC and I assume that this will be updated to reflect the change….to the NPS-UD. The Future Proof website notes that it is anticipated that a draft Future Proof Phase 2 document will be completed early 2021 with public consultation occurring early-mid 2021* (EIC par 3.27).

51. Effectively what this means is that the planner (and to some extent the economist) for PVHL is requesting that this Panel puts significant weight on demand/growth estimates from a 4-year-old discretionary (not an RMA requirement) strategy, that were not based on the mandatory (on this Panel - s 75) methodologies, and minimum capacity requirements of the NPS-UDC, or its replacement, the NPS-UD. This is clearly a stretch too far.

52. In these circumstances the evidence of Dr Davey, Mr Mead, Mr Thompson and Mr Oakley, is to be preferred. Their work takes account of recent growth trends, is based on Pokeno specific data, and has sought to give effect to the NPS-UD, while respectfully acknowledging, that this is ultimately a matter for Panel determination.

PWDP – Consistency

53. It is submitted that the zonings sought by the submitters are consistent with the relevant objectives and policies of the Proposed Plan, for the reasons outlined in the Planning evidence of Mr Oakley.

54. As outlined in my Memo on the 3 lens approach, in paragraph 68 of the first s 42A Report the writer cited proposed objective 5.1.1(a)(iii) which states *"urban subdivision, use and development in the rural environment is avoided"*. It appears from the subsequent discourse, and his difficulty reconciling this Objective with the need to provide for additional urban growth, that the writer was effectively treating the Objective as already "operative". This is not the correct legal approach, and it is pleasing to see that in his zone extents s 42A Report, Mr Mead has applied the usual statutory tests for a plan change, and not treated parts of the Proposed Plan as "operative".

CSL Country Living or EPA

55. As has been outlined in the evidence of the witnesses, my clients are generally supportive of the recommendations of Mr Mead in his s 42A Reports for Pokeno.

56. However, one key point of disagreement is over the Country Living Zone sought for the balance of the CSL land that Mr Mead has recommended remains Rural. Witnesses for CSL have outlined the technical suitability of this land for rural residential living and Mr Oakley has described the planning merits.

57. There has been a slight miss-understanding over the CSL request at the Rebuttal stage for Environmental Protection Areas (EPAs) where steeper areas are protected and houses clustered into hamlets, as sought by Havelock Village (refer to the evidence of Mr Tollemache and Mr Pryor). This approach has been developed by CSL through the Rebuttal evidence of Sir William, with the support of a plan from Mr Ho, the planning evidence of Mr Oakley, and the landscape evidence of Mr Pryor.

58. For the avoidance of doubt, a CL zone is sought as per the original submission, but in the alternative, the EPA approach would be welcomed if the Panel determined that this would best meet the purpose of the Act.

59. The misunderstanding referred to above is in par 32 of Mr Mead's Rebuttal s 42A (10 May) and the CSL position will be clarified in the summary statements of Mr Oakley and Sir William and at the Hearing.

60. Regarding the suggestion that the 100m RL should be a development ceiling, made by Ms De Lambert for PVHL, this request is opposed for the reasons set out by Mr Munro, Mr Oakley and Mr Pryor. It is an arbitrary line that has not been formally incorporated into the Plan and amenity values can be maintained and enhanced through the usual design and consenting process.

61. In summary, the merits of a CLZ or CLZ + EPA Overlay on the balance CSL land are that it would:

    (a) Provide an opportunity for the permanent protection of degraded and threatened, yet significant, ecological remnants and natural features (Ms Shanks evidence).

    (b) Help satisfy the undeniable demand for country living but in a location that is not remote, adversely affecting elite soils, or causing reverse sensitivity issues for primary production activities.

    (c) Provide a "natural" transition from the urban to the rural zoned areas.

    (d) Through consent assessment criteria, maintain and enhance amenity values with appropriate siting, design and colours of housing, and the provision of mitigation and enhancement planting.

    (e) Provide public roads, trails and linkages, for urban residents to recreate, that are accessible to the town center, rather than this land remaining 100% in private ownership.

Evidence and Effects

62. The Panel has the benefit of hearing from the bevy of witnesses that have been engaged to support the relief sought and assist the Panel with summary statements and answering questions. Therefore, I will not repeat their evidence in these legal submissions.

63. However, their overall conclusions are that while the area West of Pokeno will change with urbanization (Mr Munro, and Mr Pryor), the land is very suitable for live zoning and residential and country living activities. The development is capable of being serviced and will be an attractive area to live that is a compact and efficient use of land resources. The development process will also enable the permanent protection of degraded but important natural and physical resources (Ms Shanks and Sir William).

64. I will now call the following witnesses:

    a) Sir William Birch (land development)

    b) Adam Thompson (economics)

    c) Will Moore (engineering)

    d) Ian Munro (urban design)

    e) Rob Pryor (landscape/visual)

    f) Leo Hills (transport)

    g) Jenni Shanks (ecology) and

    h) James Oakley (planning)

65. I would be pleased to answer any questions.

DATED at **AUCKLAND** this *12th* day of May 2021

Pokeno West, CSL and Top End
by their barrister and duly authorised agent

Peter Fuller

Peter Fuller
Barrister
Quay Chambers