

**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

Hearing 25 – Zone Extents

**PARTIES REPRESENTED
(89)**

CSL TRUST AND TOP END PROPERTIES LTD

**STATEMENT OF REBUTTAL PLANNING EVIDENCE FROM JAMES
GILBERT OAKLEY FOR CSL TRUST AND TOP END PROPERTIES LTD**

3 May 2021

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MAY IT PLEASE THE PANEL

Qualifications and experience

1. My full name is James Gilbert Oakley. I am a resource planner at Birch Surveyors Limited (**BSL**), a consulting firm with surveyors, planners and engineers based in Auckland but with satellite offices in Hamilton, Tauranga and Tairua.
2. This is a statement of rebuttal evidence on behalf of CSL Trust and Top End Properties Limited relating to the zoning of land on Helenslee Road, Pokeno (hereafter referred to as the **CSL Block**). The CSL Block is subject to the district plan review process of the Proposed Waikato District Plan (**PWDP**).
3. My qualifications and experience are set out in my primary statement of evidence for Hearing 25 (Zone Extents) dated 17 February 2021.
4. I reaffirm my previous confirmation to abide by the Environment Court Practice Note 2014 and that this statement has been prepared in accordance with said Code.

Purpose and scope of evidence

5. This statement of rebuttal evidence responds to the further submission statements of evidence from:
 - a. Christopher Scafton for Pokeno Village Holdings Limited (**PVHL**) (dated 10 March 2021);
 - b. Rachel de Lambert for PVHL (dated 17 March 2021); and
 - c. Miffy Foley for Waikato Regional Council (**WRC**) (dated 10 March 2021). As Ms Foley filed her rebuttal evidence on the 27 April 2021, I have also addressed any relevant comments in this document.
6. This statement of evidence also responds to the recommendations contained in the s 42A report for Pokeno authored by David Mead and dated 14 April 2021.

7. Where relevant, comment is made on the supplementary evidence to the Hearing 25 Framework s 42A Report provided by Dr Mark Davey (dated 28 April 2021).

Other relevant evidence

8. My evidence relies on, and should be read alongside the rebuttal evidence of the following technical experts:
 - a. Adam Thompson (economics);
 - b. Will Moore (engineering);
 - c. Rob Pryor (landscape/visual);
 - d. Leo Hills (transport);
 - e. Jenni Shanks (ecology); and
 - f. Sir William Birch (land development).

PVHL (Christopher Scafton – Planning)

The projected growth of Pokeno

9. In determining the amount of development capacity that he considers needs to be provided for Pokeno, Mr Scafton undertakes a weighting exercise between the Future Proof Strategy 2017 (**FPS**) and Waikato 2070. Ultimately, Mr Scafton suggests that the FPS take primacy over Waikato 2070¹ due to the view that the growth data underpinning Waikato 2070 does not justify the projected increase in growth².
10. By applying the 2017 Housing and Business Development Capacity Assessment (**HBA**) projections from the FPS, Mr Scafton states in para. 2.9 of his evidence that there is sufficient development capacity in the current Operative Waikato District Plan (**OWDP**) for the short and medium terms. Additional growth capacity is only identified as necessary for the long term to the volume of approximately 1000 dwellings. When the draft 2021 HBA projections are applied, Mr Scafton concludes that this only triggers the

¹ Para. 2.7, Primary Statement of Evidence of Christopher James Scafton.

² Para. 2.8, Primary Statement of Evidence of Christopher James Scafton.

requirement for additional capacity in the medium term (approximately 1,000 dwellings) and long term (approximately 4,000 dwellings).

11. Firstly, I do not agree with Mr Scrafton's notion that the FPS should be given more weighting than Waikato 2070. Whilst the FPS maintains relevance, the latter is a more recent³ document that is based on up-to-date growth projections and provides a specific area-by-area view of features including (but not limited to) identified growth nodes, development timeframes and development outcomes. Furthermore, the scope of Waikato 2070 is solely on the Waikato District and does not involve surrounding districts like the FPS does. On this basis I do not consider that it can be simply given less weighting than the FPS.
12. Regarding growth projections, I have reviewed the economic rebuttal evidence prepared by Mr Thompson who has conducted his own dwelling yield assessment to respond to that of the economist Mr Fraser Colegrave. On the point of the projected growth of Pokeno I note that Mr Thompson's yield projection is more refined. Mr Thompson has used dwelling yields based on actual figures (where provided) by the submitters CSL Trust and Top End Properties, Pokeno West Limited, (#97) and Havelock Village Limited (#862) who are all large Pokeno landholders. I consider this to be a more measured approach compared to the application of a zoning-based dwellings per hectare yield as Mr Colegrave does in para. 3.12 – 3.13 of his evidence. From this exercise, Mr Thompson's yield total of actual dwellings plus estimated dwellings for Pokeno is reduced by some 3000 dwellings compared to Mr Colegrave's.
13. On the matter of the perceived absence of sufficient information in the growth data supporting Waikato 2070, Mr Thompson provides a fulsome response in para. 5.1 – 5.5 of his evidence.
14. Based on the above, it is my opinion that Mr Scrafton's statements on there being sufficient development capacity in Pokeno are not accurate. Further to this stance, I refer to Figure 15 – 17 of the supplementary evidence to the Framework s 42A Report.

³ The final version was adopted by the Waikato District Council on 19 May 2020.

15. Figure 15 shows market feasible residential supply in the PWDP and the area-specific s 42A reports, demand (+20%) over the next 15 years and the residential supply reasonably expected to be realised. For Pokeno whilst there is a substantial amount of market feasible supply, a portion of which is in excess of demand (+20%), the amount reasonably expected to be realised falls short of demand.
16. Figure 16 shows a similar projection with demand (+20%) only being met when the Future Urban Zone (**FUZ**) land in eastern Pokeno is accounted for. Otherwise, there is a shortfall in the supply when only looking at what is reasonably expected to be realised whilst excluding the FUZ.
17. Figure 17 provides a projection of anticipated growth output in terms of greenfield/brownfield development vs infill/redevelopment. The supplementary evidence acknowledges that the adoption of a Medium Density Residential Zone (**MDRZ**) provides a “significant increase in the market-feasible supply”⁴. However, Figure 17 shows that the reasonably expected to be realised supply of infill/redevelopment is significantly dwarfed by greenfield/brownfield supply. In turn, this graph shows that development supply for the future growth is projected to be realised by way of greenfield/brownfield development. I concur with Dr Davey’s comment⁵ in this regard about the strength of the Waikato District housing market for infill development relative to Auckland and Wellington.

The Future Urban Zone and structure planning

18. In para. 2.12, Mr Scafton supports the inclusion a FUZ and subsequent structure planning exercise to guide the growth of land deemed unsuitable for live zoning. I do not disagree with the inclusion of a FUZ in the PWDP, however the application of the FUZ needs to be carefully considered as it relates to meeting the requirements for providing growth capacity under the statutory framework. On this point I note Mr Scafton’s reference⁶ to Waikato 2070 and Section 05.2 which refers to undertaking a structure planning exercise prior to rezoning in the District Plan. I do not see any merits in this process prior to rezoning (through the District Plan review) given the

⁴ Para. 38, Supplementary Evidence of Dr Mark Nairn Davey.

⁵ Para. 41, Supplementary Evidence of Dr Mark Nairn Davey.

⁶ Para. 3.35, Primary Statement of Evidence of Christopher James Scafton.

unnecessary delays that would be caused. As such, I agree with Mr Mead's comment in para. 113 that rezoning should not be stopped for a Pokeno-wide structure plan to be prepared.

19. In the case of the CSL Block, while there is no strict structure plan, a significant amount of technical work underpins the submission providing reliable information on the key characteristics that influence urbanisation. Considerable urban design work has also completed such that conceptualisation of future development has been undertaken.

20. In terms of the effect of FUZ on providing for growth, my earlier remarks on the supplementary evidence to the Framework s 42A Report show that the margins of supply to meet demand (+20%) are already slim. An increase in the amount of FUZ land could further constrain the requirements to provide for sufficient growth capacity. On this point I concur with the approach⁷ by Dr Davey to separate supply provided through the FUZ due to the plan change process required to live-zone the land.

21. I also note the Auckland context of live zoning FUZ land shows that the process can be lengthy and fraught with difficulties. This is evidenced in examples such as:

- a. Plan Change 5 (Whenuapai Plan Change) which was notified on 21 September 2017 to realise Stage 1 of the Whenuapai Structure Plan⁸ and was primarily derailed by noise issues. A decision is still pending as a Variation to the plan change is now being undertaken; and
- b. Plan Change 25 (Warkworth North) which is a private plan change that involved difficulty with the applicant preparing their own structure plan (as required under the Auckland Unitary Plan) and the Council undertaking their own structure planning process. This culminated in the s 42A report recommending that the plan change be declined on the basis that the applicants structure plan deviated from the Council structure plan without justification. This is important to note given consistency with structure plans is not a

⁷ Para. 14(d), Supplementary Evidence of Dr Mark Nairn Davey

⁸ Finalised in September 2016.

statutory test for plan changes nor are structure plans an RMA document. Structure plans sit outside of the RMA as a tool for guiding future urbanisation/development.

22. Ultimately, I do not oppose the inclusion of a FUZ and the requirement for such land to be structure planned prior to live-zoning by way of a plan change (whether Council-led or private). As for this plan review and the identification of live-zoned areas, I support the approach of Mr Mead in identifying part of the CSL Block as live-zoned Residential. I also agree with Mr Mead's conclusion in para. 302 that applying FUZ to this land is a less effective option and could affect integration with the adjoining Munro Block.

National Policy Statement on Urban Development 2020

23. Mr Scafton makes reference to the National Policy Statement on Urban Development 2020 (**NPS-UD**) and the infrastructure requirements⁹. On this matter I bring attention to the primary evidence of Mr Moore and previous work done regarding the provision of infrastructure to the CSL Block.

Franklin District Growth Strategy

24. In para. 3.15 – 3.16 of his evidence Mr Scafton states:

"The urban growth of Pokeno as identified in the FDGS is largely consistent with the growth of Pokeno as set out through the Pokeno Structure Plan ("PSP") which in my view has been given effect to through the implementation of Plan Change 24 ("PC24") to the Waikato District Plan ("WDP"). As such, I consider that, with regards to providing development capacity within Pokeno, the requirements of the RPS have largely been achieved"

25. I appreciate that the Waikato Regional Policy Statement (**WRPS**) contains Policy 6.12 (Implementing Franklin District Growth Strategy) (**FDGS**). However, the same policy clearly stipulates that "The Franklin District Growth Strategy applies until the Future Proof Growth Strategy and relevant district plans are amended."

26. On this point I note the views by myself and others that the FDGS is now obsolete as it has since been replaced by the FPS and Waikato 2070. I made

⁹ Para. 2.8, Primary Statement of Evidence of Christopher James Scafton.

this remark myself in para. 83 of my primary evidence referencing the comment¹⁰ by Dr Davey in the Framework s 42A Report. Mr Mead has continued this view drawing a similar conclusion in para. 28. On this basis I consider that Mr Scrafton's view that "with regards to providing development capacity within Pokeno, the requirements of the RPS have largely been achieved"¹¹ to be incorrect.

PVHL (Rachel de Lambert – Landscape/visual)

Development in the rural landscape of Pokeno

27. Ms de Lambert recommends in para. 8.4 of her evidence that urban development in land above Reduced Level (**RL**) 100 be avoided as this would affect the rural character of the village. Specifically, Ms de Lambert states:

"In my opinion the Pokeno West area should respond to RL100 and avoid urban development on the steeper hill backdrop that defines the western visual catchment to Pokeno."

28. As outlined in her evidence (para. 2.2 and 2.8), development in the elevated areas of Pokeno was canvassed in the development of the Pokeno Structure Plan (**PSP**) back in 2008. The discussions on development above RL100 are said to have involved consultation with Pokeno residents and Iwi.

29. For the Pokeno rezoning submissions, Ms de Lambert provides a plan showing this contour and where it is featured inside the CSL Block. I have provided a close-up of this plan for the CSL Block in **Attachment A**.

30. Regarding the matter of not developing above RL100 and the PSP, I consider that it is appropriate to look at the planning framework for the landscape/visual elements of the surrounding Pokeno area. I acknowledge that development above RL100 was discussed during the structure planning phase for Pokeno and accepted as the limit of development. However, as rightly identified by Mr Mead in para. 241, this principle of no development above that contour is not a part of the PWDP by way of a policy or rule.

¹⁰ Para. 139, Framework s 42A Report by Dr Mark Nairn Davey.

¹¹ Para. 3.16, Primary Statement of Evidence of Christopher James Scrafton.

31. To my knowledge, restricting development above RL100 was also not strictly incorporated into the PSP nor is the landscape recognised as being outstanding or significant and warranting formal protection in the PWDP. In fact, I am not aware of any primary/further submissions or expert evidence filed to date that reference RL100 within Pokeno or provide robust technical support for adherence to it.
32. On the matter of the actual and potential effects caused by developing above RL100, these are addressed in the evidence of Mr Pryor and in the evidence for Pokeno West Limited by Mr Munro. His evidence in regard to the RL100 proposed limitation is adopted by CSL in the Hearing before the Panel. As for mitigating any effects, the evidence of Ms Shanks speaks to the ecological benefits of revegetating and enhancement on the Country Living Zone (**CLZ**) area which contains Significant Natural Area (**SNA**) among other natural features.
33. Furthermore, the approach taken by Havelock Village Limited (#862) (**HVL**) whereby Environmental Protection Areas (**EPA**) are sought to be applied surrounding the cluster development is an alternative approach that in my opinion could be applied to the CLZ section of the CSL Block. There are merits to such an exercise given the presence of ecological features in this area that would benefit from planting. Vegetating of the slopes would also help any future low density development to further blend into the landscape.
34. On the above, I refer to the evidence of Sir William Birch to which an indicative EPA plan is attached. The plan shows potential areas where EPA could be applied based on the topography of the CLZ area and the location of SNAs. Therefore, future rural-residential development would be subject to the EPA rules in the CLZ. Such an approach would also be supported by the proposed objectives and policies in the CLZ chapter of the PWDP which relate to landscape, character and amenity.

The provision of land for future urbanisation

35. In para 9.6 and 11.4 of her evidence, Ms de Lambert recommends that if future urban growth is required that it should be provided in eastern Pokeno (**Pokeno East**) across State Highway 1 (**SH1**). The reason for this is that the

land here is not contained within or adjoining any prominent rural landscapes/backdrops.

36. Whilst I can appreciate the intention of such a proposal, there are differences between the two sites that mean they are not like-for-like in terms of developability. In addition, the relief sought from the primary statement of planning evidence (dated 17 February, 2021) by Mr Nick Grala (on behalf of Thorntree Orchards Limited (#54), Cindy and Tony Young (#735) and Parkmere Farms(#696)) is that the land be rezoned to FUZ given existing uncertainty regarding servicing (para. 25 – 26). I note that Mr Mead recommends that this relief sought be accepted¹².

37. I am aware of the existing servicing constraints of Pokeno East having been involved in the primary (#54) and further (#1054) submissions on behalf of Thorntree Orchards Limited when BSL was serving as their agent/lead consulting firm. In this vein, I support a FUZ being applied on the land until such time that these outstanding matters are resolved and therefore, I concur with Mr Meads recommendation.

Pokeno Structure Plan

38. In para. 10.4 of her evidence Ms de Lambert defends the importance of the Pokeno Structure Plan (**PSP**) for the future growth of Pokeno. Specifically, Ms de Lambert says:

“Whilst I consider Pokeno is able to grow in population, outside of those areas that provide the rural backdrop to the settlement and particularly to its established industrial area, I do not consider that in doing so the Proposed Plan should essentially throw the baby out with the bathwater. It would be doing just that if decisions on the Proposed Plan were to ignore the original spatial structure planning that informed the earlier plan changes for Pokeno.”

39. This has been a recurring theme for Pokeno and I do commend the work done for the PSP, the subsequent Plan Changes and the development that has occurred in Pokeno to date. However, on balance, I do not consider that the PSP should have significant influence or weighting on the next stage of growth in Pokeno enabled by the PWDP.

¹² Para. 137 – 139, Pokeno s 42A Report by David William Arthur Mead.

40. As shown in **Attachment B**, Pokeno was essentially a blank canvas during the structure planning exercise. Since that time, there has been significant development to realise the objectives and aspirations of the PSP. To get a sense of this, I have provided **Attachment C** which shows the current cadastral spatial data in Pokeno overlaid by the PSP. In my opinion this is a useful visual to show how progressed the PSP is. The Helenslee residential block is fully developed and sold out¹³ and the Hitchen Residential block is well underway with stages 1–9 (out of 19) fully sold out¹⁴. The Gateway Business Park is also fully sold out.
41. Based on the above, I do not see how future development outside of the PSP extent could reasonably be bound by the previous structure planning exercise. The PSP may be relevant for remaining development within its confines but as I have demonstrated, the bulk of the development sought to be overseen by the PSP has occurred. Furthermore, that resultant development from the PSP has fundamentally changed the environment of Pokeno such that consideration of future development opportunities cannot solely rely on the technical work done previously.

WRC (Miffy Foley – Planning)

42. Ms Foley clearly identifies the reasons why she opposes the submission in Table 21.2 of her primary evidence (dated 10 March 2021). Where these are consistent with her rebuttal evidence (dated 27 April 2021), I have addressed them together.

Waikato 2070

43. Ms Foley opposes the rezoning as the site is not identified within the Waikato 2070 strategy. Whilst I appreciate that the site is not a specified growth cell in Waikato 2070, evidence has been previously been provided that the site passes the higher statutory tests required of rezoning. For Waikato 2070, Council is required to *have regard to* the document as per s 74 of the RMA.

¹³ As confirmed on the masterplan on the Pokeno Village Estate website on the 27 April 2021.

¹⁴ As confirmed on the masterplan on the Pokeno Village Estate website on the 27 April 2021.

On this basis, Council is not strictly bound to adhering to the contents of the strategy.

44. On the point of the CSL Block not being included in Waikato 2070 but being rezoned, I concur with the recommendation¹⁵ by Mr Mead that the land be live zoned. With reference to the projected growth of Pokeno and the requirement to *give effect to* the National Policy Statement on Urban Development (**NPS-UD**), the CSL Block warrants inclusion as an appropriate area for future growth to be accommodated. Mr Mead acknowledges the appropriateness of the CSL Block making reference to the location of the area contiguous with the existing Pokeno Village¹⁶.

Serviceability of the site

45. Ms Foley opposes the rezoning of the CSL Block on the grounds that the submission does not have infrastructure or infrastructure plans at this stage. The ability of the site to be serviced is addressed in the previous technical reporting/evidence by Mr Moore.

Additional rural-residential zoning in the District

46. Ms Foley opposes the proposal for Country Living Zone (**CLZ**) and concurs with para. 258 of the Framework s 42A Report by Dr Davey that no additional CLZ or Village Zone land be included in the plan.
47. Given the opposition to this aspect of the submission I have provided further commentary on the CLZ portion of the CSL Block as it relates to key rural-residential policies from the WRPS.

TABLE 1 – Assessment Against Policy 6.17 Rural-residential development in Future Proof area

WRPS – POLICY 6.17	COMMENTS
Management of rural-residential development in the Future Proof area will recognise the particular pressure from, and address the adverse effects of, rural-residential development in parts of the sub region, and particularly in areas within easy commuting distance of Hamilton and:	

¹⁵ Para. 296, Pokeno s 42A Report by David William Arthur Mead.

¹⁶ Para. 267, Pokeno s 42A Report by David William Arthur Mead.

a) the potential adverse effects (including cumulative effects) from the high demand for rural-residential development;	<p>The CSL Block is located within Pokeno which did not contain any CLZ land in the notified PWDP. As such, this type of zoning will not generally add to any cumulative effects.</p> <p>I note that Pokeno does have large areas of Village Zone land in the PWDP although such land is not strictly rural-residential in nature. I refer to the definition of “rural-residential development” in the WRPS which is “residential development in rural areas which is predominantly for residential activity and is not ancillary to a rural or agricultural use”.</p>
b) the high potential for conflicts between rural-residential development and existing and planned infrastructure and land use activities;	<p>There are no known or anticipated conflicts between the proposed CLZ and existing and or planned infrastructure and land use activities. I note the presence of established quarrying activities to the north-west but there is sufficient separation between those activities and the CLZ area. Furthermore, the CLZ aspect is low-density and is benefitted from variable topography in conjunction with the separation distance (500m+). The operators of said activities have also not raised any opposition to the submission.</p>
c) the additional demand for servicing and infrastructure created by rural-residential development;	<p>The management of services on-site for the CLZ is provided for in the minimum lot size of 5000m². Therefore, it is not anticipated that undue demand for servicing and infrastructure will occur as the land is not sought to be serviced in that manner.</p>
d) the potential for cross-territorial boundary effects with respect to rural residential development; and	<p>The CSL Block is in Pokeno which is close to the boundary of the Auckland region. Notwithstanding this, there are no known or anticipated boundary effects. Future residents of this area will positively contribute to the development of growth of Pokeno. The addition of CLZ land provides for alternative lifestyle options for prospective residents of Pokeno to choose from.</p>
e) has regard to the principles in section 6A.	<p>These are addressed in Table 2.</p>
IMPLEMENTATION METHODS	COMMENTS
<p>6.17.1 District plan provisions and growth strategies:</p> <p>Waipa District Council and Waikato District Council shall include provisions in district plans and growth strategies to give effect to Policy 6.17. This will include strictly limiting rural-residential development in the vicinity of Hamilton City.</p>	<p>The District Plan review presents the opportunity to give effect to Policy 6.17 by way of rezoning additional CLZ land where appropriate.</p> <p>The CSL Block is not in the vicinity of Hamilton City.</p>

<p>6.1.7.2 Rural-residential development around Hamilton:</p> <p>Waipa District Council and Waikato District Council shall work with Hamilton City Council, and in association with Waikato Regional Council, tāngata whenua, the NZ Transport Agency and other infrastructure providers, to develop agreements about the nature of rural-residential development in the vicinity of Hamilton City, and ways to prevent adverse impacts on infrastructure that services Hamilton City and future city development.</p>	<p>The CSL Block is not in the vicinity of Hamilton City.</p>
<p>6.17.3 Directing development to rural-residential zones</p> <p>Waipa District Council and Waikato District Council should investigate, and shall consider adopting through district plans, provisions such as transferable development rights which will allow development to be directed to rural-residential zones identified in district plans.</p>	<p>The submission does not involve transferable development rights.</p>

TABLE 2 – Assessment Against Section 6A

SECTION 6A – PRINCIPLES SPECIFIC TO RURAL-RESIDENTIAL DEVELOPMENT	COMMENTS
As well as being subject to the general development principles, new rural-residential development should:	The general 6A Development Principles were addressed in my primary evidence in para. 87 – 118 and do not need repeating here.
a) be more strongly controlled where demand is high;	
b) not conflict with foreseeable long-term needs for expansion of existing urban centres;	The front half of the site is sought to be rezoned to Residential Zone. This is considered to be a logical expansion of the existing Pokeno area and is not affected by the CLZ component of the submission. Further urban expansion into the area of the CLZ is not contemplated given the change in the terrain/topography which better lends itself to CLZ-type outcomes.
c) avoid open landscapes largely free of urban and rural-residential development;	The landscape of the CSL Block is subject to potential change given the Residential Zone component adjoining Helenslee Road. Development of this land in the future and the Munro Block to the south would mean the

	landscape is not open but instead contains urban development.
d) avoid ribbon development and, where practicable, the need for additional access points and upgrades, along significant transport corridors and other arterial routes.	An indicative masterplan for the development of the CLZ land has been provided which avoids a ribbon development design. The CSL Block does not adjoin any significant transport corridors or arterial routes.
e) recognise the advantages of reducing fuel consumption by locating near employment centres or near current or likely future public transport routes;	The CLZ area on the CSL Block adjoins the proposed Residential Zone area which adjoins the existing urban area of Pokeno. Servicing the residential area with public transport routes would offer the opportunity for the CLZ area to make use of these. Micro-mobility options (e-bikes, e-scooters) present an opportunity to.
f) minimise visual effects and effects on rural character such as through locating development within appropriate topography and through landscaping;	Landscaping of the CLZ area presents the opportunity to add to the low-density nature of the subdivision output by further mitigating any visual effects. This can be achieved by way of applying an Environmental Protection Area (EPA) Overlay in strategic areas. I also refer to the evidence of Mr Pryor on the landscape effects of CLZ in the proposed area.
g) be capable of being serviced by onsite water and wastewater services unless services are to be reticulated; and	Future development of the CLZ area would require new lots to be at least 5000m ² . Complying with this
h) be recognised as a potential method for protecting sensitive areas such as small water bodies, gully-systems and areas of indigenous biodiversity	The CLZ proposal presents the opportunity to enhance ecological outcomes given the presence of identified features including (but not limited to) Significant Natural Area on the CLZ area. Refer to the evidence of Ms Shanks for comments on ecological matters.

Rebuttal Evidence

48. Ms Foley filed her rebuttal evidence on the 27 April 2021 prior to the actual deadline, as such I have taken the opportunity to address any relevant matters raised.

Future Urban zoning

49. In para. 3.1 – 3.2 of her rebuttal, Ms Foley expresses continued opposition to the Residential zoning of the CSL Block on the basis of it not being identified in Waikato 2070. She also raises the future servicing of the site as a constraint that warrants the block instead being FUZ and subject to a structure planning/plan change exercise.

50. These matters have predominantly been addressed in my rebuttal to her further submitter statement of evidence. As for Ms Foley's suggestion that the CSL Block should be FUZ, I agree with Mr Mead's response to this whereby he comments that "A Future Urban Zone for the residential component of the land would likely inhibit integrated planning with the adjacent Munro block¹⁷".
51. Both of the submitters for the Munro and CSL Blocks have been collaborating openly on how future development might be realised. With the live zoning of both landholdings this would provide the opportunity for a whole of catchment approach to the western portion of Pokeno. This is benefitted by the consulting team for both submissions being essentially the same meaning the individuals are familiar with both blocks.
52. To apply the FUZ to the CSL Block would not only risk not adhering to the requirements of the higher order documents (namely the NPS-UD and providing sufficient growth capacity), but it would also constrain the ability of both blocks to be considered for a comprehensively integrated development which would be beneficial for matters including (but not limited to), servicing and infrastructure, stormwater management, providing an appropriate neighbourhood centre/day-to-day convenience options and open space/other amenities.
53. In para. 302, Mr Mead echoes my statement above stating that "Rezoning to Future Urban zone is likely to see a delay in the rezoning of the land and is likely to be less effective than the first option. This option also raises issue with the co-ordination of development with the adjacent Munro block (which is already zoned Residential in the PWDP)".

Rural residential development

54. The submitter is still seeking that CLZ be applied to the western portion of the block. In her rebuttal, Ms Foley provides additional comments on this aspect of the HVL proposal as it is recommended to be accepted by Mr Mead. Ms Foley also comments on the HVL proposal for identified EPAs in conjunction with cluster development which is relevant as I have noted the identification of EPAs as an alternative approach for the CLZ aspect of CSL Block.

¹⁷ Para. 292, Pokeno s 42A Report by David William Arthur Mead.

55. On Ms Foley's comments in para. 4.7 of her rebuttal, I note the following:

"The term 'environmental protection area' is defined in the district plan"

- a. I do not oppose the term EPA being defined in the PWDP. I note that the term Environmental Protection Policy Area is defined in the OWDP (Waikato Section) as follows:

- i. *"Means an area of land shown on the planning maps that is an ecologically sensitive area as described in an ecological report or subject to flooding as described in the Catchment Management Plan. The purpose of the Policy Area is to avoid the flood hazard, encourage the protection and enhancement of ecosystems and ecological corridors, and protect the habitats of plants, birds and other wildlife";*

"The term 'environmental protection area' is defined in the district plan"

- b. The zone underlying any proposed EPA in the CLZ should not be Rural Zone. EPA areas are generally not uniform shapes and to have all of these areas being Rural Zone would not present a good zoning outcome. If this was implemented there would be patchy isolated areas of Rural Zone interspersed with CLZ.

"Restriction on the EPA area being subdivided into multiple lots"

- c. EPA applying across the land of multiple owners is not an unusual circumstance. This is well-evidenced as below in Te Kauwhata. I consider that there is sufficient flexibility in the provisions to allow for eventualities where an EPA may be in multiple ownership. As shown in the Rule 23.4.11 (Subdivision of land containing all or part of an Environmental Protection Area), the planting and management plan must be prepared by a suitably-qualified person and contain exclusively native species suitable to the area and conditions. This will generate appropriate outcomes tailored to each EPA. Furthermore, the rules require that planting is undertaken prior to the issue of the 224(c) certificate. Based on the above, the protection/enhancement of the EPA rightly is at the front-end of the subdivision process.

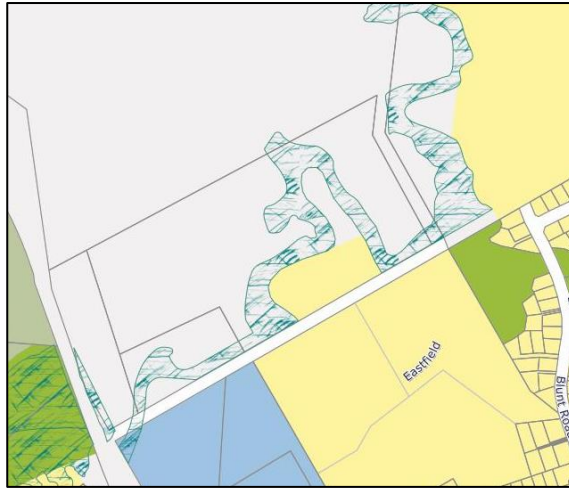


Figure 1: The EPA (green hatch) as it applies in an area in Te Kauwhata.

(Source: PWDP Planning Maps)

“Require ecological, planting, and pest management plans for the EPA area”

- d. As per Rule 23.4.11 (Subdivision of land containing all or part of an Environmental Protection Area), a planting and management plan is required for the EPA with Council having discretion over the measures proposed in the planting and management. I also note that in Hearing 12 (Country Living Zone), the Council Rebuttal version of the Chapter recommends the inclusion of an additional matter of discretion relating to legal protection of the EPA if this appropriate.

“Include a further matter of discretion in proposed rule 23.4.2A to require identification of suitable area for on-site effluent disposal at subdivision stage”

- e. The expectation that wastewater is disposed of on-site in the CLZ is captured in the minimum lot size being 5000m² which assumes sufficient area to accommodate an effluent disposal area. Whilst this is not strictly written into the General Subdivision (23.4.2) activity it is recognised in the objectives and policies for the zone, specifically 5.6.1, 5.6.2 and 5.6.3.

Pokeno s 42A Report

Accommodating future growth

56. I have previously addressed Mr Scafton's comments on the weight of the FPS and Waikato 2070. Mr Mead echoes a similar statement in para. 32 of the s 42A report which I concur with.

57. I also agree with Mr Mead's statement in para. 57 about providing for live zoned land for long term (beyond 10 years) capacity. Plan changes and District Plan reviews can be lengthy processes and having appropriate areas as live zoned provides more certainty on future growth opportunities. I note that the PWDP review itself was the subject of a 14-month time extension for decisions to be given after initial notification on 18 July 2018.

The provision of Medium Density Residential Zone and a Neighbourhood Centre

58. For the CSL Block rezoning submission, Mr Mead recommends in para. 295 that the relief sought be accepted with the exception of the request for a MDRZ and Neighbourhood Centre (**NC**) to be identified. On this point, I clarify that the relief sought for the CSL Block was not the inclusion of new business zoning but having the NC formally identified in a masterplan. As far as I understand, NC's are provided for in the PWDP not with their own zoning but by way of a Permitted Activity (16.1.2) (P11) in the Residential Zone rules.

59. I concur with Mr Mead's rationale for recommending that the Residential Zone be accepted. Mr Mead remarks in para. 266 that the planning evidence and technical evidence is sufficient to pass the relevant statutory tests. Those matters were addressed in my primary evidence and do not need repeating here.

60. On the matter of the MDRZ and NC, I agree with Mr Mead in para. 269 that there is merit in such activities being accommodated within western Pokeno. As for the mechanism through which this can occur, Mr Mead does not recommend that the aforementioned zoning be applied to the site. As an alternative, Mr Mead identifies¹⁸ other reasonably-practicable options to realise these outcomes. These are:

- a. through resource consenting; or
- b. a future public/private plan change.

¹⁸ Para. 299 – 300, Pokeno s 42A Report by David William Arthur Mead.

61. I have reviewed the Residential Zone chapter to determine whether this is a viable option and I agree that there is sufficient flexibility for these activities to be provided for through the resource consenting process. The Residential Zone has the Multi-Unit Development¹⁹ activity which allows for higher density land use (16.1.3 Multi-Unit development) (RD1) and subdivision (16.4.4 Subdivision – Multi-Unit development) (RD1) outcomes as a Restricted Discretionary Activity. As previously mentioned, for NCs, this is a Permitted Activity (16.1.2) (P11) in the Residential Zone chapter subject to the area being “identified in a Council approved Structure Plan or Master Plan”. Whilst it was initially sought that the NC be identified in the CSL Block master plan and carried through to the PWDP, I see no significant barrier to realising a NC at a later date through the consenting process.

62. I note that in the other reasonably-practicable options, Mr Mead mentions a future plan change (private or public) as a pathway to enabling these outcomes. Whilst this is certainly true, given the time restriction of Clause 25 (4)(b)(i) I note that this pathway may not be suitable as this would give Council the discretion to reject a plan change request on the grounds that the matter had been considered within the last two years.

Future Urban Zone

63. Applying the FUZ across the site is floated by Mr Mead in para. 300 as a reasonably-practicable alternative. I agree with his conclusion in para. 302 that the costs of applying the FUZ could impact integration/co-ordination with the Munro Block which is a desirable outcome in my opinion given both blocks essentially occupy the entirety of the western flank of Pokeno.

Structure planning

64. In broad terms, I agree with Mr Mead’s stance on structure planning. Whilst it can be a useful process to follow, it is not a statutory requirement and it should not be imposed where it is not necessary or where it could inappropriately

¹⁹ Multi-unit development means multiple residential units which are integrated in a comprehensive manner. It includes: (a) an apartment building; and (b) a duplex. It excludes: (a) retirement villages; (b) papakaainga housing development; and (c) papakaainga building. (Source: PWDP (Notified Version))

halter growth (e.g. by not providing live zoned land in a high growth area that is supported by sufficient technical reporting and analysis).

65. In the case of the CSL Block, a significant amount of work has been completed to address the relevant issues. Mr Mead recognises that further structure planning of western Pokeno would be beneficial. However, I opine that such an exercise would be unnecessarily time-consuming in this instance and is not warranted given the extent of work already completed.

Development above RL100

66. On the matter of development above RL100, Mr Mead considers that the effects on the landscape have not been sufficiently addressed²⁰. To address this he also provided his own estimate of where RL100 lies which is provided in **Attachment D**.

67. For an accurate view of where RL100 lies, I have provided a marked-up contour plan in **Attachment E**. The underlying data is derived from Precision Aerial Surveys who did a survey in May 2020.

68. Regarding development at the eastern section of the site, the effects of the CLZ development in this area are addressed by Mr Pryor. Potential mitigation options have been previously discussed in this statement of evidence and that by Ms Shanks and Sir William Birch.

Country Living Zone

69. Mr Mead is in agreement with the WRC about the CLZ aspect of the submission and does not recommend that it is adopted²¹. As outlined earlier in this rebuttal I have addressed a number of the important WRPS matters relating to rural-residential land demonstrating alignment.

70. As for the general practicability of the applying CLZ in the eastern portion of the site, the topography of that portion of the site means that any future use for rural productive uses is unlikely. Furthermore, the provision of this zoning provides greater diversity in the residential outcomes for those in the housing market. Whilst the focus of the growth will be on the urban zonings, there is

²⁰ Para. 272, Pokeno s 42A Report by David William Arthur Mead.

²¹ Para. 295, Pokeno s 42A Report by David William Arthur Mead.

merit in providing for rural residential living. If prospective purchasers do not have suitable offerings it is possible that they will look elsewhere to other blocks that do have rural productive potential or are on high class soils but use the land for rural lifestyle purposes.

Conclusions

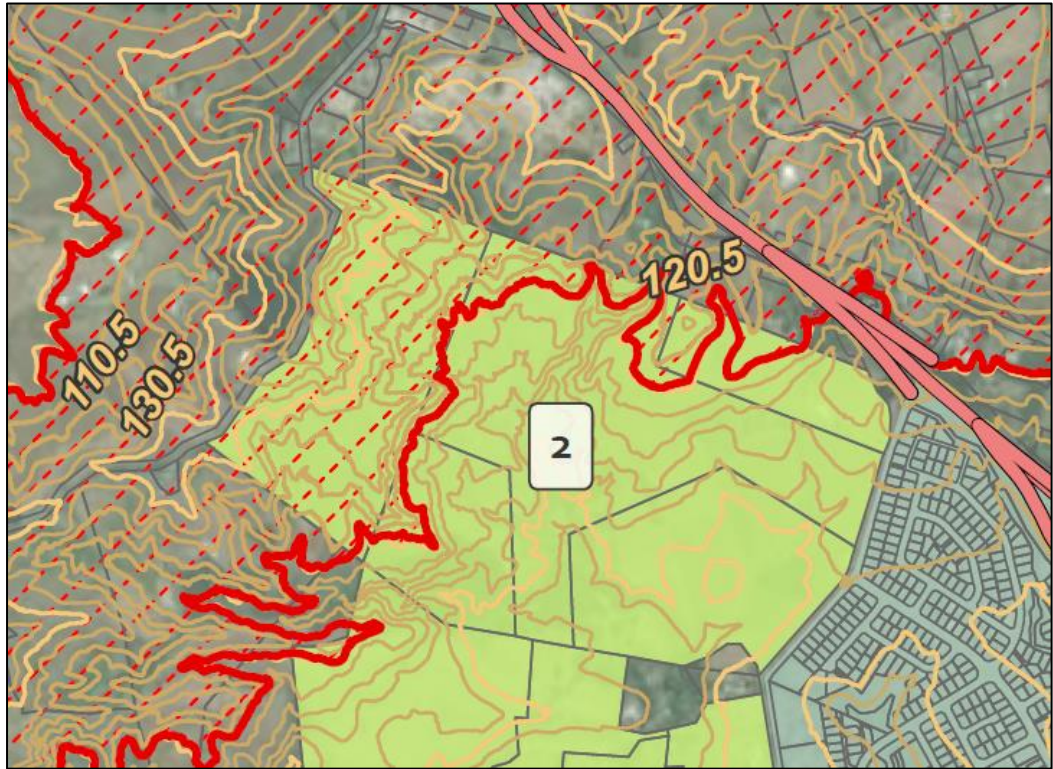
71. I have reviewed the relevant evidence submitted, the s 42A report and the supplementary evidence to the Framework s 42A Report. For the reasons expressed in this statement of evidence it is my view that:

- a. I disagree with Mr Scrafton that there is sufficient supply to accommodate projected residential demand for Pokeno;
- b. I agree with Mr Mead that the site should be rezoned to Residential Zone and not FUZ;
- c. I disagree with Mr Mead that the CLZ area of the site should remain as Rural Zone;
- d. I agree with Mr Mead that there is a viable process to delivering medium-density residential outcomes and a neighbourhood centre through resource consenting;

James Gilbert Oakley

3 May 2021

ATTACHMENT A – RL100 (in red) on the CSL Block (numbered 2)



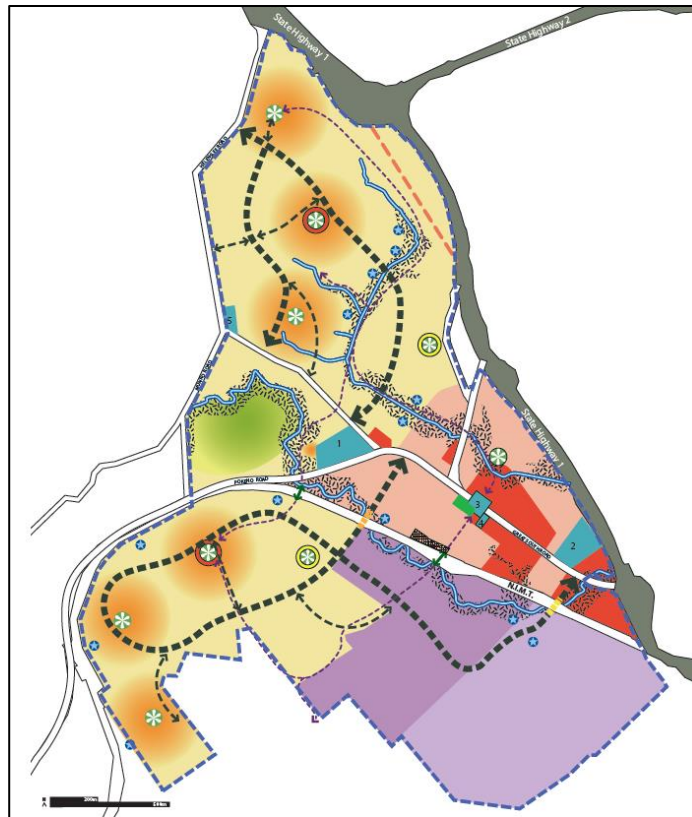
Source: Further submitter statement of evidence from Rachel de Lambert for Hearing 25 (Zone Extents).

ATTACHMENT B – Aerial photo of Pokeno dated 24/1/2010

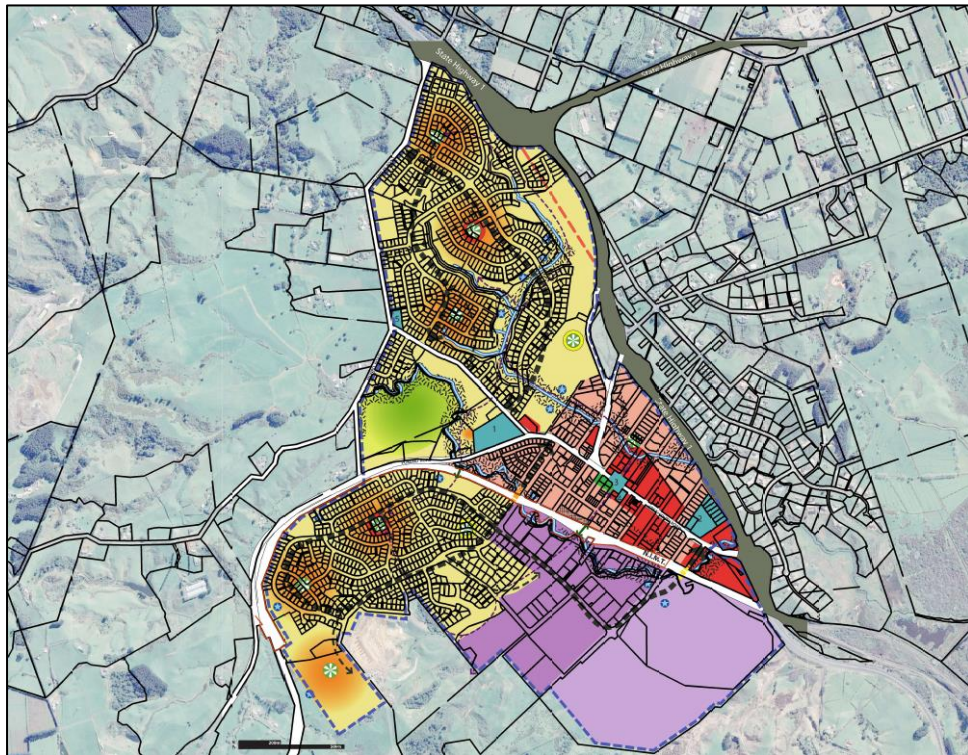


Source: Google Earth.

ATTACHMENT C – The Pokeno Structure Plan overlaid on top of current cadastral data



Source: Pokeno Structure Plan (2010).



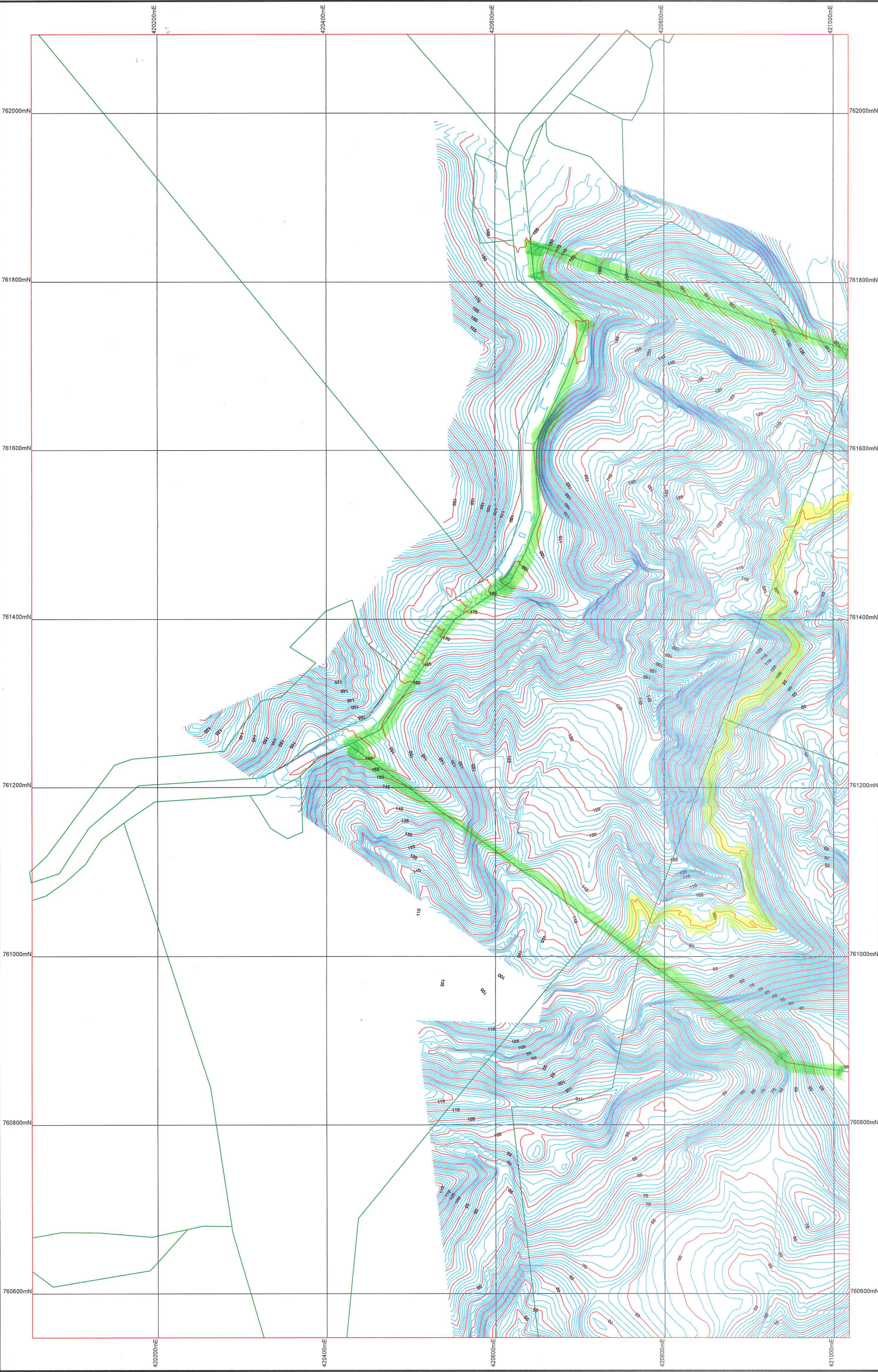
Source: Pokeno Structure Plan (2010) and QuickMap.

ATTACHMENT D – RL100 (in black) on the CSL Block (in red)



Source: Pokeno s 42A Report.

ATTACHMENT E – RL100 (in yellow) on the CSL Block (in green)



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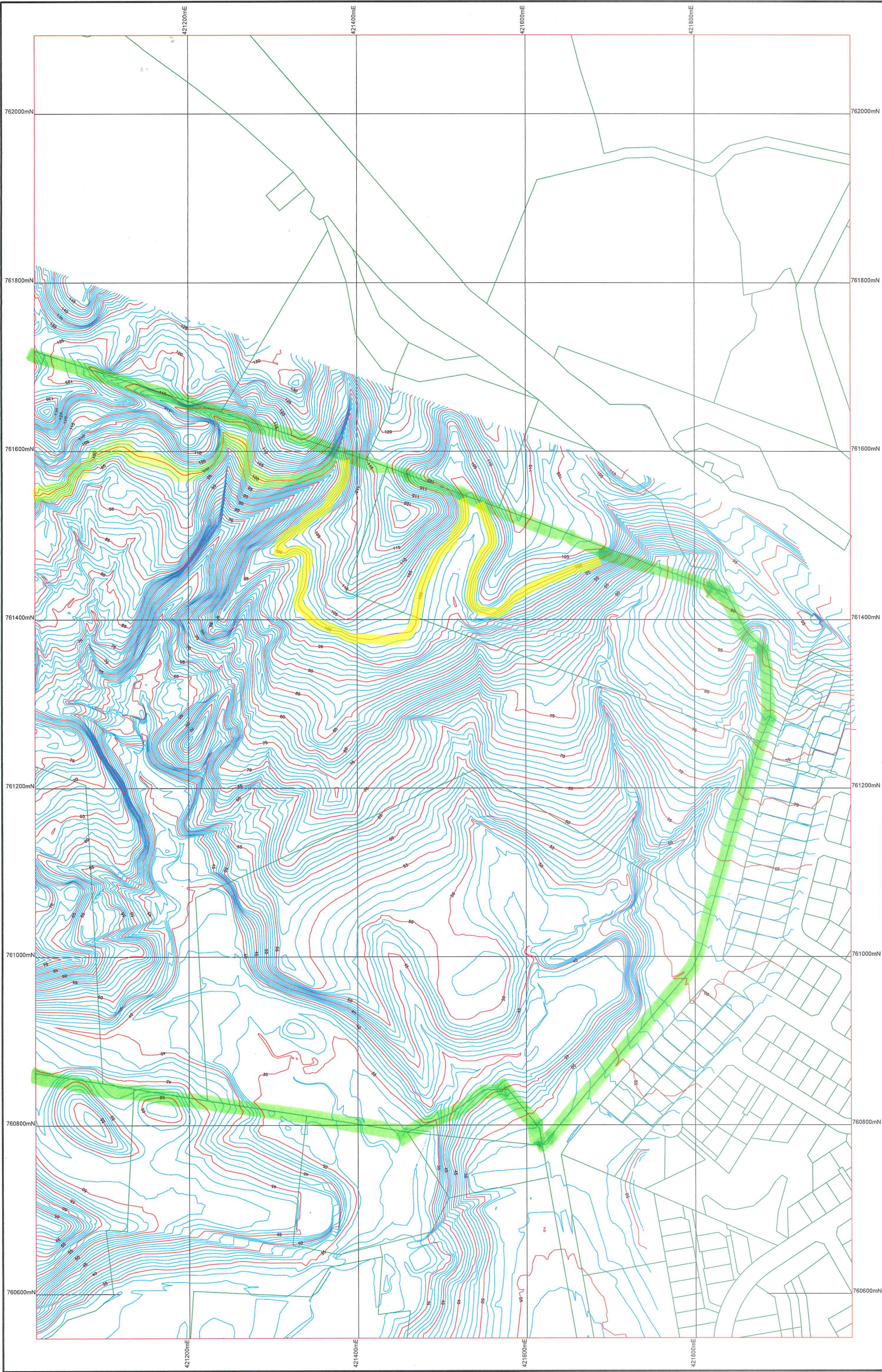
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