

**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** **POKENO WEST LIMITED (97)**

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**STATEMENT OF REBUTTAL PLANNING EVIDENCE FROM JAMES  
GILBERT OAKLEY FOR POKENO WEST LIMITED**

*3 May 2021*

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## **MAY IT PLEASE THE PANEL**

### **Introduction**

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 Pokeno West Limited relating to the zoning of land on Helenslee Road/Munro Road, Pokeno (hereafter referred to as the **Munro Block**). The Munro 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 of evidence has been prepared in accordance with said Code.

### **Purpose and scope of evidence**

5. This statement of evidence responds to the further submission statements of evidence from:
  - a. Christopher Scrafton for Pokeno Village Holdings Limited (**PVHL**) (dated 10 March 2021); and
  - b. Rachel de Lambert for PVHL (dated 17 March 2021).
6. This statement 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 Framework s 42A Report authored by Dr Mark Davey and 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. Ian Munro (urban design);
  - d. Rob Pryor (landscape/visual);
  - e. Leo Hills (transport);
  - f. Jenni Shanks (ecology); and
  - g. 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 2070<sup>1</sup> due to the view that the growth data underpinning Waikato 2070 does not justify the projected increase in growth<sup>2</sup>.
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

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<sup>1</sup> Para. 2.7, Primary Statement of Evidence of Christopher James Scafton.

<sup>2</sup> 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 recent<sup>3</sup> 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 Pokeno West Limited, CSL Trust and Top End Properties (#89) 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 2020, 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.

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<sup>3</sup> 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”<sup>4</sup>. 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 comment<sup>5</sup> 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 reference<sup>6</sup> 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

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<sup>4</sup> Para. 38, Supplementary Evidence of Dr Mark Nairn Davey.

<sup>5</sup> Para. 41, Supplementary Evidence of Dr Mark Nairn Davey.

<sup>6</sup> Para. 3.35, Primary Statement of Evidence of Christopher James Scafton.

unnecessary delays that would be caused. As such 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 Munro 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 approach<sup>7</sup> 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 Plan<sup>8</sup> 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

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<sup>7</sup> Para. 14(d), Supplementary Evidence of Dr Mark Nairn Davey

<sup>8</sup> 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 the Munro Block as live-zoned Residential. I also agree with Mr Mead's conclusion in para. 256 that applying FUZ to this land could affect the statutory requirements to provide sufficient land for growth.

*National Policy Statement on Urban Development 2020*

23. Mr Scrafton makes reference to the National Policy Statement on Urban Development 2020 (**NPS-UD**) and the infrastructure requirements<sup>9</sup>. On this matter I bring attention to the primary evidence of Mr Moore and his rebuttal evidence outlines the provision of infrastructure to the Munro Block.

*Franklin District Growth Strategy*

24. In para. 3.15 – 3.16 of his evidence Mr Scrafton 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

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<sup>9</sup> Para. 2.8, Primary Statement of Evidence of Christopher James Scrafton.

this remark myself in para. 83 of my primary evidence referencing the comment<sup>10</sup> by Dr Mark 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"<sup>11</sup> 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 useful plan showing this contour and where it is featured inside the Munro Block. I have provided a close-up of this plan for the Munro Block in **Attachment A**. However, it is clear from the plan that RL100 only slightly encroaches into the block in small areas at the western-most boundary.

30. Given the very minor presence of RL100 in the site it is my opinion that there is not any merit from restricting these areas from being rezoned as sought in the Ms de Lambert's evidence. With the extent of the RL100 contours encroachment being minimal, in my opinion the effectiveness of restricting development in this area (by maintaining the Rural Zone) is not warranted. Furthermore, the presence of land at greater elevations has been acknowledged in the conceptualisation of potential future development. Areas

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<sup>10</sup> Para. 139, Framework s 42A Report by Dr Mark Nairn Davey.

<sup>11</sup> Para. 3.16, Primary Statement of Evidence of Christopher James Scrafton.

that are deemed unsuitable for development have been generally avoided in the concept masterplan.

31. Regarding this matter in general terms, 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.
32. To my knowledge, restricting development above RL100 was also not 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.

*The provision of land for future urbanisation*

33. 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.
34. Whilst I can appreciate the intention of such a proposal, there are stark differences between the two sites that mean they are not like-for-like in terms of developability. As such, Pokeno East would not readily serve the same function in providing development capacity in a timely manner. 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, Cindy and Tony Young and Parkmere Farms) 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 accepted<sup>12</sup>.
35. 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

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

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.

36. In the wider-scheme of providing growth within Pokeno, I am of the opinion that it is not prudent to accept Ms de Lambert's recommendation that Pokeno East be preferred to development of the Munro Block. There are existing infrastructure constraints that are acknowledged by the Pokeno East submitters and the presence of RL100 has been exposed as not warranting any change in the zoning sought.

#### *Pokeno Structure Plan*

37. 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."*

38. 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.
39. 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 out<sup>13</sup> and the Hitchen Residential block is well underway with stages 1–9 (out of 19) fully sold out<sup>14</sup>. The Gateway Business Park is also fully sold out.

40. 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.

### **Pokeno s 42A Report**

#### *Accommodating future growth*

41. I have previously addressed Mr Scrafton'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.
42. 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*

43. For the Munro Block rezoning submission, Mr Mead recommends in para. 250 that the relief sought be accepted with the exception of the request for a Medium Density Residential Zone (**MDRZ**) and Neighbourhood Centre (**NC**) to be identified. On this point, I clarify that the relief sought for the Munro 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

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<sup>13</sup> As confirmed on the masterplan on the Pokeno Village Estate website on the 27 April 2021.

<sup>14</sup> As confirmed on the masterplan on the Pokeno Village Estate website on the 27 April 2021.

PWDP not with their own zoning but by way of a Permitted Activity (16.1.2) (P11) in the Residential Zone rules.

44. I concur with Mr Mead's rationale for recommending that the Residential Zone be accepted. Mr Mead remarks in para. 246 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.

45. On the matter of the MDRZ and NC, I agree with Mr Mead in para. 233 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 identifies<sup>15</sup> other reasonably-practicable options to realise these outcomes. These are:

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

46. 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 Development<sup>16</sup> 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 Munro 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.

47. 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

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<sup>15</sup> Para. 253 – 254, Pokeno s 42A Report by David William Arthur Mead.

<sup>16</sup> 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))

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*

48. Applying the FUZ across the site is floated by Mr Mead in para. 254 as a reasonably-practicable alternative. I agree with his conclusion in para. 257 that the costs of applying the zoning could stagnate growth, specifically housing supply and choice. The live zoning of the Munro Block is also supported by the evidence of Mr Thompson<sup>17</sup>.

#### *Structure planning*

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

50. In the case of the Munro Block, a significant amount of work has been completed to address the relevant issues. Mr Mead recognises in para. 256 that further structure planning of western Pokeno would be beneficial. However, I concur with his conclusion in this paragraph that the delay involved in undertaking this exercise could compromise the requirement to *give effect* to the NPS-UD as required under s 75(3)(a) of the RMA.

#### *Development above RL100*

51. In para. 242, Mr Mead recognises that the encroachment of the RL100 contour into the Munro Block is minimal. On this matter we are in agreement that the visual and landscape qualities can be captured in future detailed design. I note that he also provided his own estimate of where RL100 lies which is provided in **Attachment D**.

52. 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

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<sup>17</sup> Para 6.5 Rebuttal Evidence Statement of Adam Jeffrey Thompson.

Aerial Surveys who did a survey in May 2020. This enhanced data confirms that extent of RL100 with the Munro Block is minimal.

### **Conclusions**

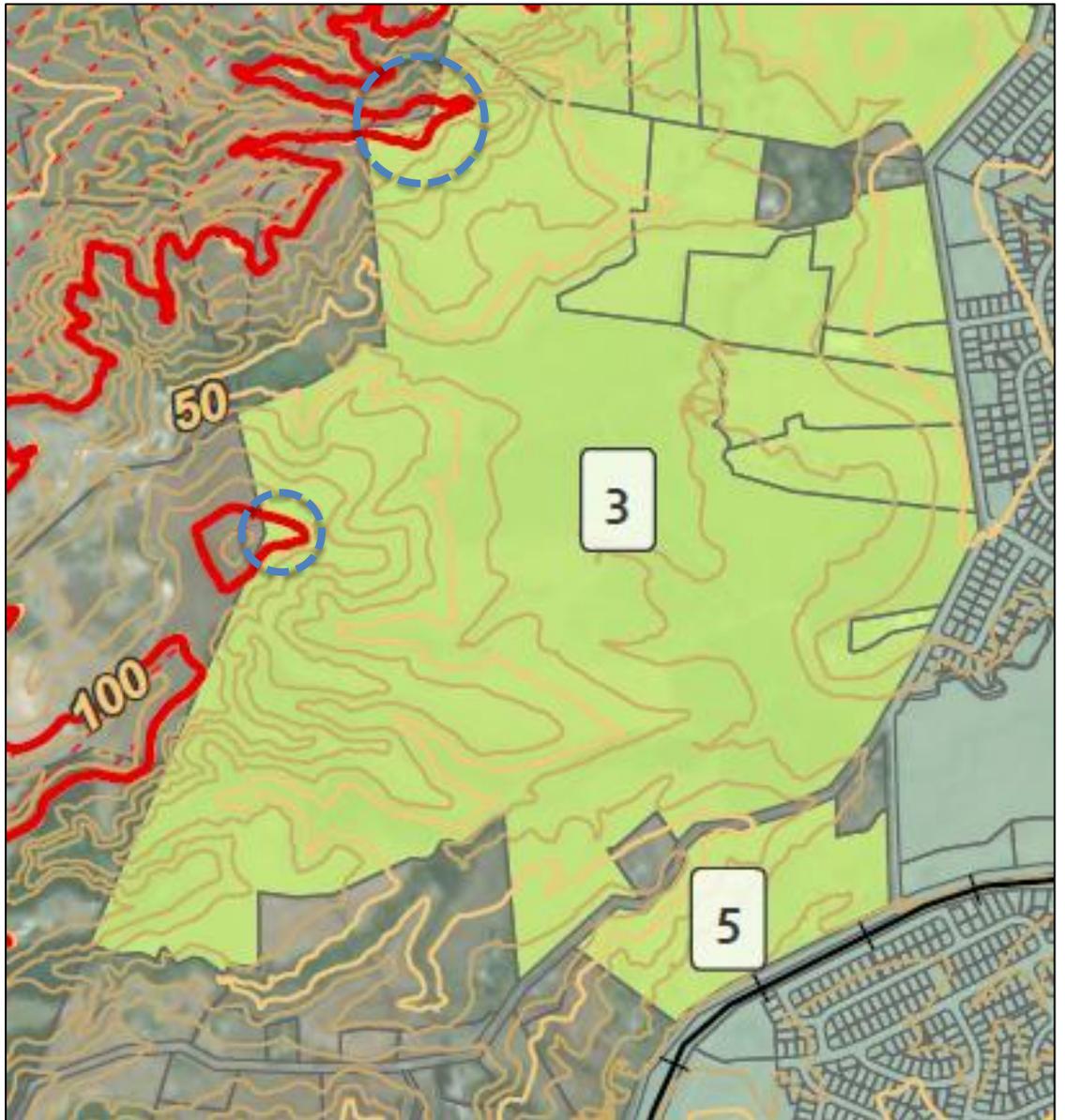
53. I have reviewed the relevant evidence submitted, the s 42A report and the supplementary evidence to the Framework s42A Report. For the reasons expressed in this statement of evidence it is my view that:

- 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 agree with Mr Mead that there is no merit in limiting development above RL100;
- 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 Munro Block (numbered 3)**



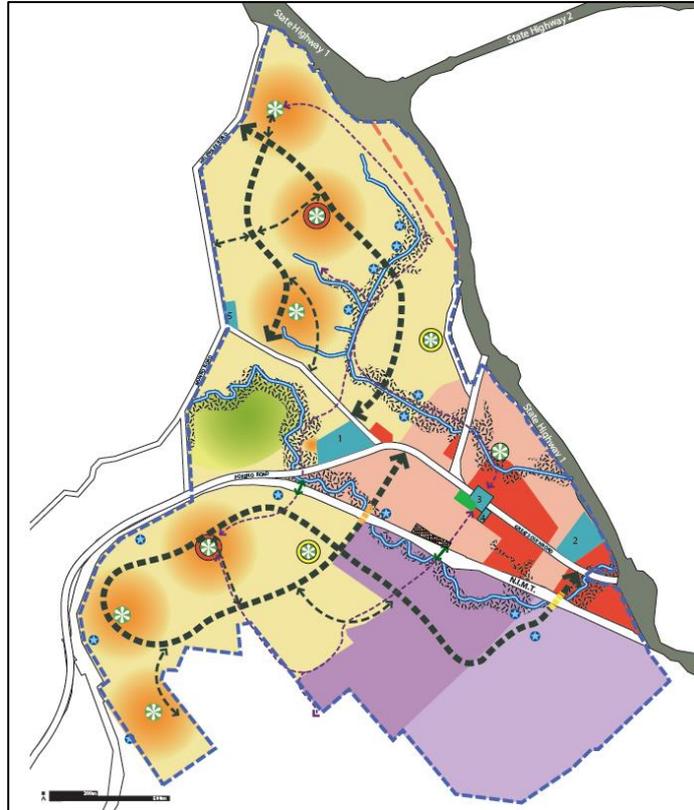
Source: Further submitter statement of evidence from Rachel de Lambert for Hearing 25 (Zone Extents).

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

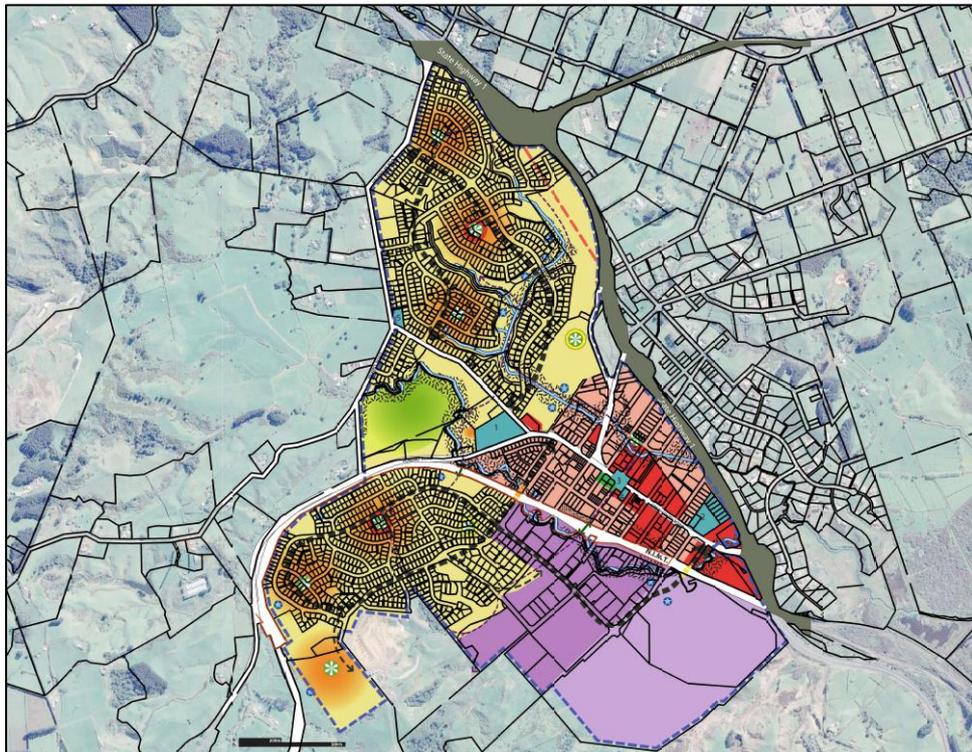


Source: Google Earth.

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

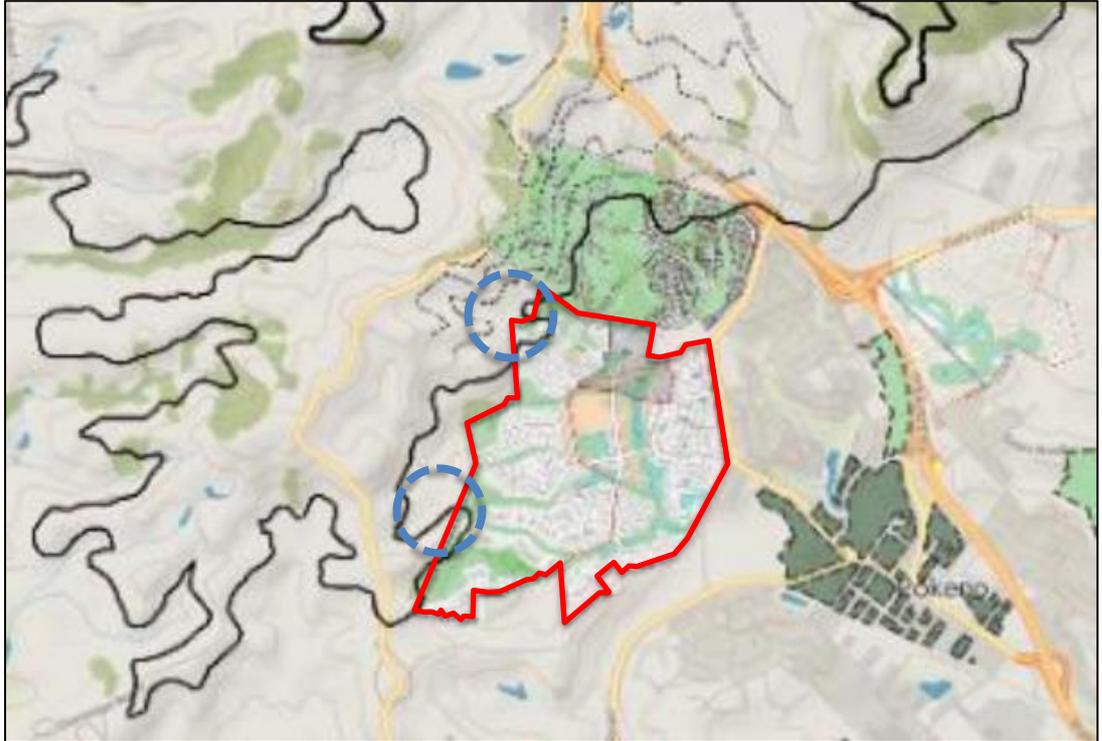


Source: Pokeno Structure Plan (2010).



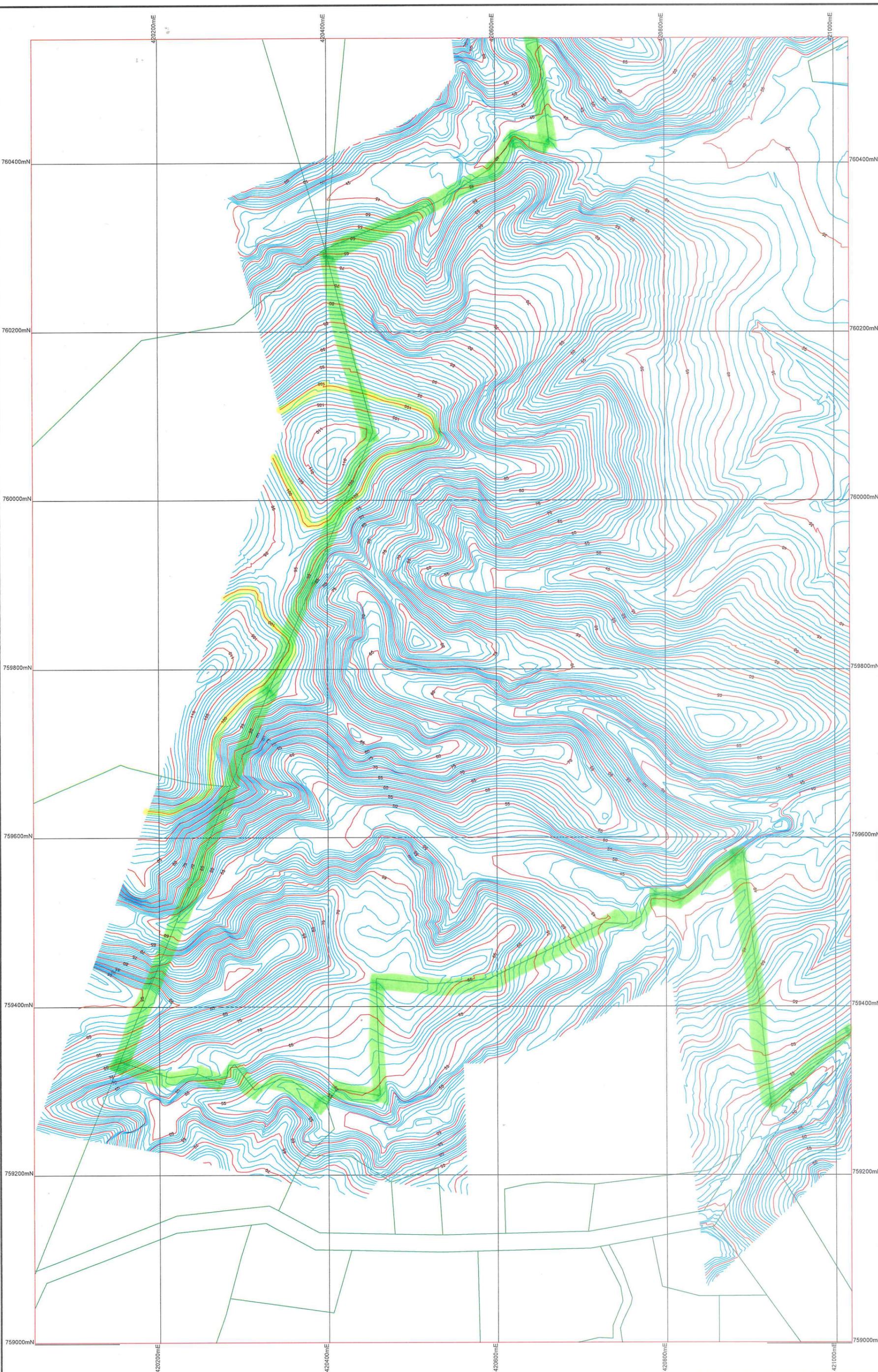
Source: Pokeno Structure Plan (2010) and QuickMap.

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



Source: Pokeno s 42A Report.

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



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3	4

**PRECISION AERIAL SURVEYS**  
 PHOTO CONTROL BY:  
 CHRYSTIE CIRCUIT  
 DATUM: AUSTRIAN ANSCHLUS  
 NOTE: AERIAL PHOTOGRAPHY IS ONLY DEMONSTRATED WHERE THERE IS  
 CONFORMAL DATA OR 3D TERNARY DATA.  
 PHOTOGRAPHY BY:  
 PRECISION AERIAL SURVEYS  
 MAY 2020  
 NEGATIVES USED:  
 CONTOUR INTERVAL:  
 1m



precision aerial surveys