

**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 18 – Rural Zone

PARTIES REPRESENTED **STEVEN AND TERESA HOPKINS (451)**
Submitters

**STATEMENT OF REBUTTAL EVIDENCE FROM SIR WILLIAM FRANCIS
BIRCH AND JAMES GILBERT OAKLEY FOR STEVEN AND TERESA
HOPKINS**

15 SEPTEMBER, 2020

MAY IT PLEASE THE PANEL

Qualifications and Experience

1. This is a joint statement of evidence on behalf of Steven and Teresa Hopkins relating to the provisions of the Rural Zone in the Proposed Waikato District Plan (PWDP). This statement has been prepared by Sir William Birch and James Oakley.
2. My full name is Sir William Francis Birch. I am a Registered Professional Surveyor (RPS) and a consultant at Birch Surveyors Limited. I have been involved in land use planning in the Auckland and Waikato regions and the surrounding districts both as a Minister of the Crown and as a RPS from the time I first established my own survey practice in Pukekohe in 1957. I am also a Fellow of the New Zealand Institute of Surveyors.
3. My full name is James Gilbert Oakley. I am a resource planner at Birch Surveyors Limited. I have a Bachelor of Arts and a Masters of Urban Planning & Urban Design (Hons) from the University of Auckland. My relevant professional experience spans three years whereby I have been involved in consenting and policy projects primarily across the Auckland and Waikato regions. I am an Intermediate Member of the New Zealand Planning Institute.

Code of Conduct

4. We confirm that we have read the Environment Court's Code of Conduct for Expert Witnesses and we agree to comply with it. We confirm that we have considered all of the material facts that we are aware of that might alter or detract from the opinions that we express, and that this evidence is within our areas of expertise, except where we state that we are relying upon the evidence of another person.

The Submitters

5. Steven and Teresa Hopkins (**submitters**) own and occupy the property at 67 Pioneer Road, Pokeno (**subject site**). The thrust of their earlier initial and further submission on the PWDP primarily relate to the proposed rezoning of their property, the merits of which will be addressed at Hearing 25 (Zone Extents).

Scope of Evidence

6. This rebuttal evidence provides a response to the evidence (**Hynds evidence**) prepared by Chanel Hargrave and Dharmesh Chhima on behalf of Hynds Pipes Systems Limited and Hynds Foundation. However, it is noted that the evidence submitted on behalf of Synlait Milk (**Synlait**) has also been reviewed given they undertake heavy industrial operations that adjoin those of Hynds and are referenced in the Hynds evidence.
7. The focus of the Hynds evidence relates to addressing potential reverse sensitivity effects on their Pokeno operations. The submitters are completely opposed to the proposal to establish a buffer around the Hynds Pipes facility that passes into a portion of the subject site (**Appendix 1 – Fig. 1**). This buffer would restrict the ability to use the site contained in the extent of the buffer in the following ways:
 - a. Sensitive land uses would automatically be a Discretionary Activity; and
 - b. There would be an additional trigger for consent as a Restricted Discretionary Activity for subdivision.
8. As the buffer extends into many of the surrounding properties, the submitters have consulted with their neighbours who collectively oppose the implementation of such a mechanism. This is demonstrated in the provision of their signatures in support of the attached cover letter (**Appendix 2**).
9. Synlait are also wary of potential reverse sensitivity effects in their evidence but have taken a different approach to managing these effects compared to Hynds. Synlait is seeking to have sensitive activities setback a minimum of 300m away from the Heavy Industry Zone which is consistent with the distance for oxidation ponds.
10. We do not consider that the relief sought from both the Hynds and Synlait evidence is appropriate to manage these effects. As such, our position is that the proposed heavy industrial buffer (PHIB) and all associated Rural Zone chapter amendments identified by Hynds and Synlait be rejected in their entirety for the following reasons:

The Presence of an Existing Land Buffer

11. The land on which Hynds industrial activities are undertaken (9 McDonald Road) is adjoined by two parcels of land (62 and 10 Bluff Road) that are both owned by the Hynds Foundation. These parcels extend up to the Bluff/Pioneer Road boundary and provide an ample opportunity to address the effects produced from the Hynds operations (**Appendix 1 – Fig. 2**). To address the effects produced by the Hynds operations the use of these tracts of land as a buffer is a logical response.
12. 62 Bluff Road is 27.4090ha in size and is identified in the Hynds evidence as zoned Aggregate Extraction and Processing (AEP) in the Operative Waikato District Plan (OWDP). This land is zoned Rural under the PWDP but is subject to a submission to zone the land Heavy Industry which Hynds are in support of.
13. 10 Bluff Road is 9.4962ha in size and was not subject to a rezoning submission on the PWDP, therefore it is determined that it will remain as such in the future.
14. Together both properties provide separation distances in the range of some 240m–770m between the Hynds industrial activities and the Bluff/Pioneer road boundary of the southern properties subject to the PHIB. Because both of these properties are in Hynds ownership this provides certainty that no sensitive activities will be undertaken on-site that might affect their operations.
15. The ownership arrangement also allows for both parcels to be enhanced with other mitigation features (e.g., additional screen planting) without constraint giving them control of mitigating effects from their activities. This is consistent with the direction provided by the reporting officer in Hearing 7 (Industrial Zone and Heavy Industrial Zone) about the potential encroachment of sensitive activities on industrial zones being regulated on the adjoining zone, as referenced in the Hynds evidence (para. 32).
16. Buying parcels of land adjoining effect-producing land uses (e.g., aerodromes, mines and landfills) to manage potential boundary issues is not uncommon. In this instance, Hynds have already taken the initiative and done this with the two Rural Zone (as per the PWDP) properties which negates the need for the establishment of the PHIB. This also aligns with the accepted

land use planning approach of graduating land uses that adjoin one another which the Hynds evidence acknowledges (para. 21).

17. The use of zoning as a first step to managing effects is an accepted land use planning approach as identified in para. 213 of the Rural Zone land use s42A report which states:

18. *“... the district plan seeks to manage the tension between incompatible activities through, at a high level, the use of zoning, whereby various parts of the district are set aside for various activities, where like activities (and their effects) are able to be grouped.”*

19. In this case the Heavy Industry Zone and Rural Zone are considered to be a compatible combination in light of the purpose and function of each zone. Combining this with the fact that Hynds currently own the adjoining land that is zoned Rural means they have the capacity to influence the effectiveness of this land to function as a buffer rather than implementing the PHIB and burdening the land in the surrounding area which would unnecessarily devalue the land and affect

Lack of Technical Support for PHIB

20. Whilst a s32AA evaluation of the PHIB has been provided in the Hynds evidence, no specific technical support has been provided to justify the location of the buffer. The Hynds evidence acknowledges in para. 45 that a standardised setback would be inadequate as the effects from industrial activities are not consistent.

21. To resolve this, a bespoke buffer is deemed necessary that has been identified based on the surrounding topography (para. 46 – para. 48). The focus of the buffer appears to be based on eliminating sightlines toward the Heavy Industry Zone as this would avoid views of the operational lighting at night and emissions of dust which could lead to complaints about these effects.

22. In our opinion, there needs to be a more robust technical assessment justifying the location of the buffer. Given the buffer is some 400m-500m away from the Hynds operations it is integral that there is supporting material to explain why the effects of the operations warrant such a large buffer.

23. It is also noted that such distances referred to in para. 24 are comparable to the building setback requirements (as per the s42A report) for sensitive land uses from features as shown below:

| Feature | Minimum Setback |
|---|------------------------|
| An Aggregate Extraction Area or Extractive Resource Area containing a sand resource; | 200m |
| An Aggregate Extraction Area or Extractive Resource Area containing a rock resource, or a Coal Mining Area; | 500m |
| The boundary of another site containing an intensive farming activity; | 300m |
| Oxidation ponds that are part of a municipal wastewater treatment facility on another site; | 300m |

24. No technical evidence has been provided from Hynds to justify that the generated effects are sufficiently noisome that such an extensive buffer is necessary to safeguard their operations and that the specific location of the buffer is defensible. To provide a meaningful response to the PHIB it would be worthwhile to see the technical basis for its location.

Sight Distances

25. Para. 21 of this rebuttal highlights the focus of the buffer to restrict new sensitive activities being established with visibility of the Hynds operations. **Appendix 3** provides photos taken on the subject site in October 2018 which show that from the site the Hynds operation are partially visible in certain locations but that the setback distance is sufficient such that the PHIB would not be necessary.

Conclusion

26. The need to manage the effects from heavy industry activities and associated land uses to safeguard their operation is accepted. However, we recommend that the PHIB and associated amendments to the Rural Zone chapter as identified by Hynds and Synlait are rejected in their entirety.

27. The implementation of the relief sought in the Hynds evidence would unnecessarily burden the affected landowners without providing certainty that reverse sensitivity effects would be avoided. Hynds own the bulk of the land between their industrial activities which forms a natural land buffer on which

they have the control to enhance to further mitigate any adverse effects from their operations.

Sir William Francis Birch and James Gilbert Oakley

Dated: 15 September 2020

APPENDIX 1: MAPS

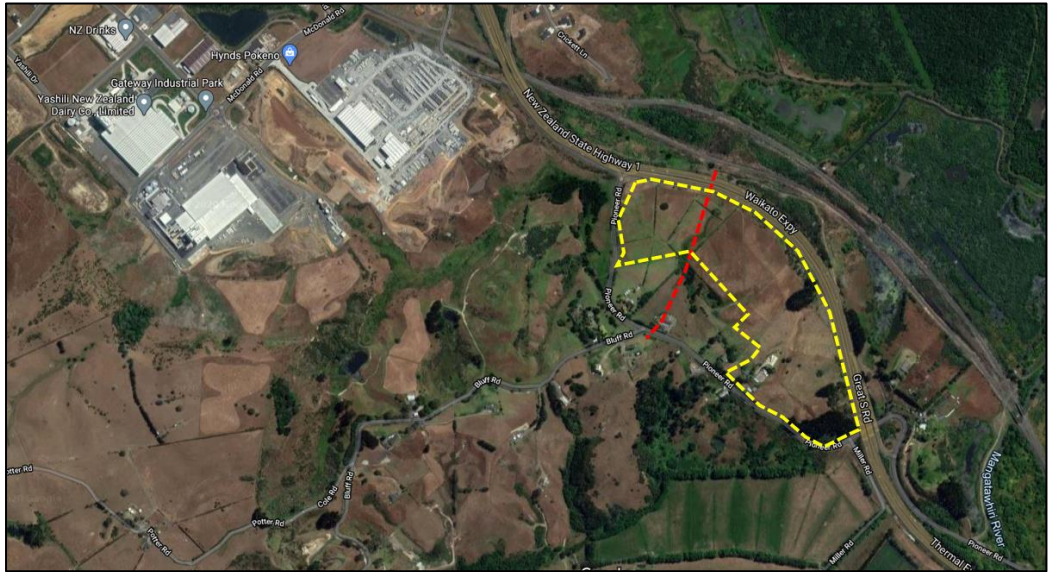


Figure 1: Map showing where the indicative location of the PHIB (red line) passes through the submitter's property at 67 Pioneer Road (yellow boundary) (Image Source: Google Earth).

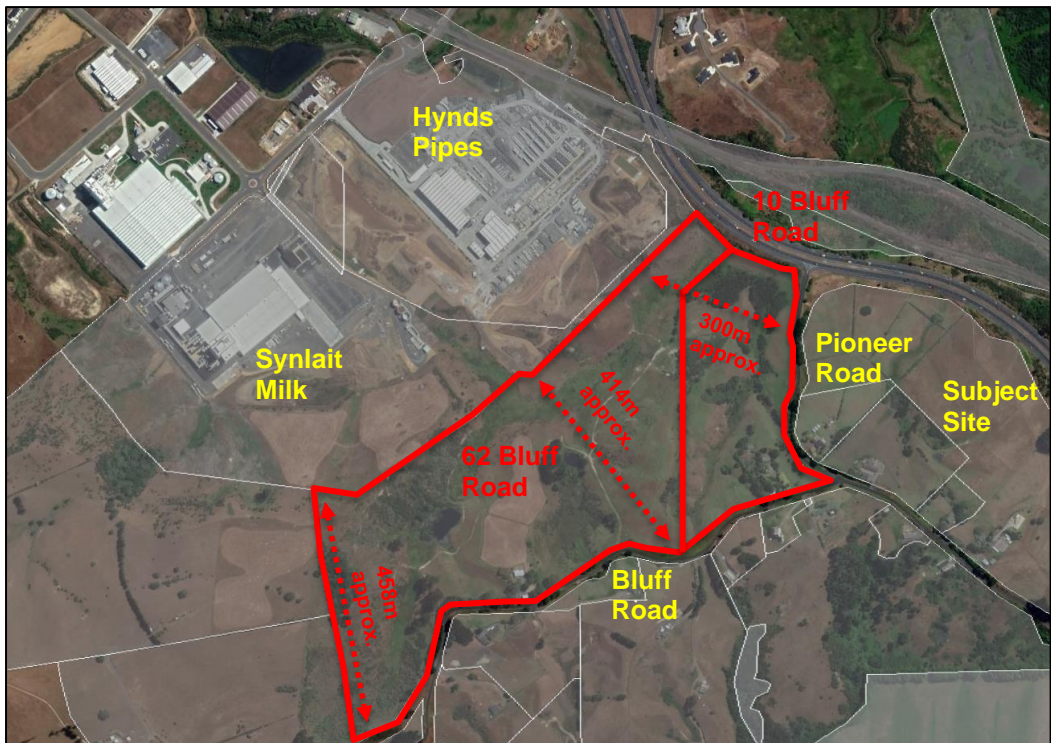


Figure 2: Land owned by the Hynds Foundation (in red boundaries) generally occupying the area between the Hynds operation and the extent of the PHIB as it extends towards Bluff/Pioneer Road (Image Source: Google Earth).

APPENDIX 2: SIGNED LETTER OF SUPPORT FROM NEIGHBOURING LANDOWNERS

| Property Address | Registered Owner/s | Legal Description |
|-------------------------------|--------------------------|-------------------------|
| 51 Pioneer Road | Ian and Beverly McIntyre | Lot 1 DP 199670 |
| 31 Bluff Road | Doug Rankin | Lot 3 DP 481315 |
| 7B Bluff Road | Lynne and John Collins | Lot 2 DP 492073 |
| 39 Pioneer Road | Craig Hall | Section 2 SO Plan 67102 |
| 206 Bluff Road* | Shane McIntyre | Lot 2 DP 202491 |
| 61 Bluff Road | Cara and Richard Watson | Lot 2 DP 481315 |
| 7A Bluff Road/72 Pioneer Road | Jane and Philip Crosbie | Lot 3 DP 492073 |
| 27 Bluff Road | Peter Bell | Lot 1 DP 175200 |

*This property is not subject to the PHIB but the owner indicated their support regardless.

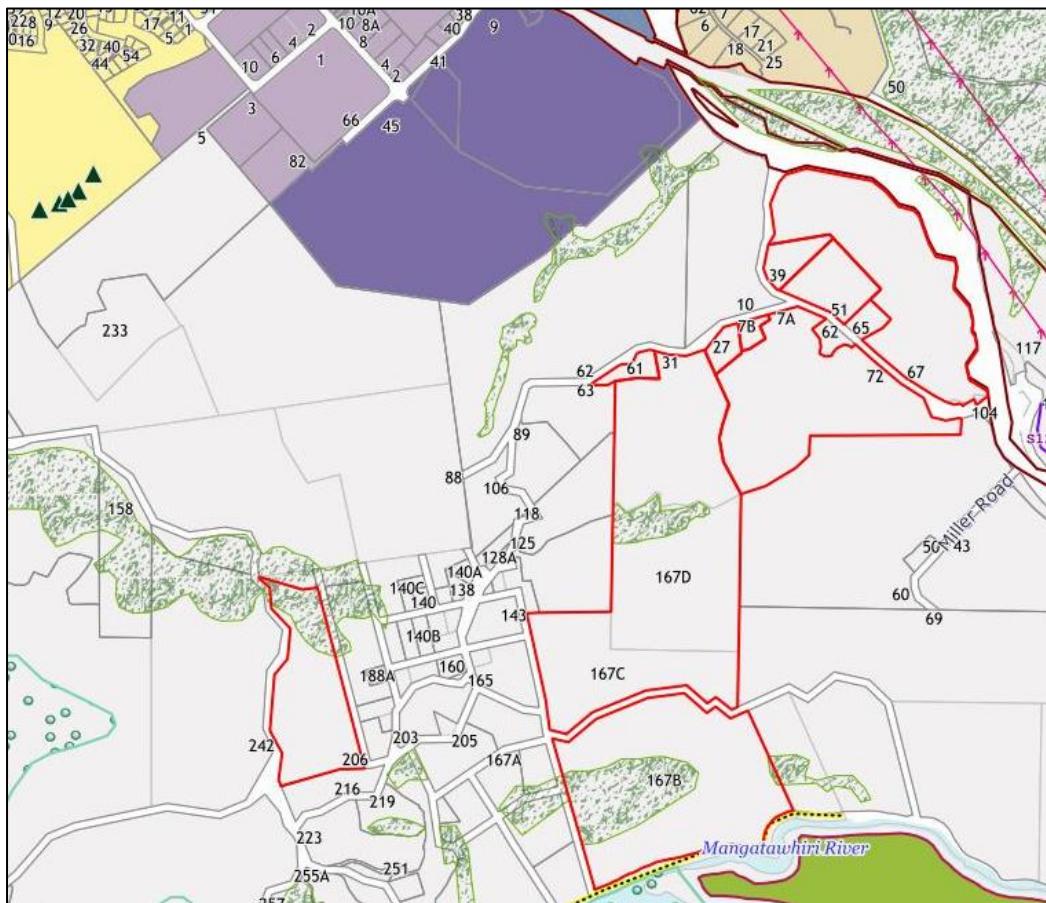


Figure 3: Properties (in red) who signed the letter of support opposing the imposition of the Heavy Industrial Buffer across their properties (Image Source: Waikato District IntraMaps).

TO WHOM IT MAY CONCERN

It has been brought to our attention Hynds Pipes Systems Ltd and Hynds Foundation have put forward their September 2020 submission without public notification before the Independent Hearings Panel in relation to the Proposed Waikato District Plan Rural Zone.

We have read the Hynds Group submission which raises a number of grave concerns, and we, the affected property owners and neighbours of PE & SPT Hopkins wish to support their rebuttal in relation to this submission for reasons as stated below.

Our objection is to the Hynds Group submission in its entirety.

An enforcement of the Hynds Group proposed buffer zones encroaches upon our respective properties severely impacting and restricting our future use of land, possible subdivision and would also lower our property values. Other content in their submission indicates there will be more dust and noise created with the Hynds expansion and hours of operation. All this is unacceptable. We all rely on rain water to fill our water tanks for household use and drinking. We propose any buffer zone Hynds Group wish to implement remain contained within their own boundaries.

Attached are signatures and addresses of concerned property owners.

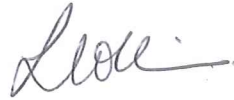
Ian and Beverley McIntyre
51 Pioneer Road
Pokeno

Beverley McIntyre

DOUG RANKIN
31 Bluff Rd
Pokeno



Lynne + John Collins
~~4~~ 76 Bluff Rd
Pokeno



CRAIG HALL
39 PIONEER RD
POKENO



SHANE MCINTYRE
206 BLUFF RD
POKENO



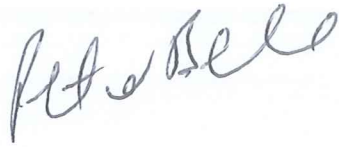
Cara + Richard Watson
61 Bluff Rd
Pokeno



Jane Crosbie
7A Bluff Rd
Pokeno



PETER BELL
27 Bluff Rd
Pokeno



Philip Edward Crosbie
7 A Bluff Rd Pokeno



Phillip Laurence Crosbie
72 Pioneer Rd, Pokeno



APPENDIX 3: PHOTOS TOWARDS POKENO FROM THE SUBJECT SITE



Figure 4: Map of indicative locations/directions (red arrows) where photos were taken from (Image Source: Google Maps).



Figure 5: View towards Pokeno from the centre of the subject site (Source: Birch Surveyors).



Figure 6: View towards Pokeno from the centre of the subject site (Source: Birch Surveyors).



Figure 7: View towards Pokeno from the centre of the subject site (Source: Birch Surveyors).



Figure 8: View towards Pokeno from the centre of the subject site (Source: Birch Surveyors).



Figure 9: View towards Pokeno from the portion of the subject site near Pioneer Road (Source: Birch Surveyors).



Figure 10: View towards Pokeno from Pioneer Road (Source: Birch Surveyors).