

**BEFORE THE AUCKLAND UNITARY PLAN INDEPENDENT HEARINGS PANEL**

<b>IN THE MATTER</b>	of the Resource Management Act 1991 and the Local Government (Auckland Transitional Provisions) Act 2010
<b>AND</b>	
<b>IN THE MATTER</b>	of the Proposed Auckland Unitary Plan ( <b>PAUP</b> ) Topic 016 / 017 . Rural Urban Boundary

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**STATEMENT OF REBUTTAL EVIDENCE OF PETER DEAN REABURN (PLANNING)  
ON BEHALF OF LONG BAY OKURA GREAT PARK SOCIETY INCORPORATED AND THE  
OKURA ENVIRONMENT GROUP**

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## **1. SUMMARY**

- 1.1** I consider the RUB at Okura should remain in the position as notified in the PAUP. While I acknowledge there may be some benefits arising from the proposals of Okura Holdings Limited I consider these are outweighed by the potential for adverse effects.
- 1.2** My evidence is principally in response to the planning evidence of Austin Fox for the Council, Karl Cook for Okura Holdings Limited and Burnette MacNicol for Okura Rural Landowners, although I also refer to other evidence, including landscape evidence. I generally agree with the conclusions reached by Mr Fox and I generally disagree with the conclusions reached by Mr Cook.

## **2. INTRODUCTION**

- 2.1** My name is Peter Reaburn. I am a Director and Planning Manager with Cato Bolam Consultants Ltd. I have been retained by the Long Bay Okura Great Park Society incorporated and the Okura Environment Group (~~the~~ submitters) to provide this evidence.
- 2.2** I have 35 years' planning and resource management experience in both public and private sector roles. I have a Bachelor of Regional Planning (Honours) degree from Massey University. I have been a full member of the New Zealand Planning Institute since 1982. I am an accredited chairperson under the Ministry for the Environment Making Good Decisions programme. I am also a member of the Resource Management Law Association.
- 2.3** I am familiar with the area at Okura that is the subject of the submissions. I have viewed the area from the surrounding land, and from a boat in the Okura Estuary.
- 2.4** I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note and I agree to comply with it. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express. This evidence is within my area of expertise, except where I state that I am relying on the evidence of another person.

### 3. SCOPE

3.1 The submitters did not provide evidence in chief on this topic. A memorandum was lodged with the Panel on 26 November 2015 stating that the submitters supported the evidence filed by the Council. However, the submitters reserved their right to file rebuttal evidence (including if necessary landscape evidence) in the event that issues were raised in primary evidence filed by any other party that submitters considered they need to respond to. The submitters wish to respond to the evidence filed by Okura Holdings Limited (%OHL+) and the Okura Rural Landowners (%ORL+). I acknowledge that the scope of my rebuttal evidence is limited to responding to evidence that has been filed.

3.2 I have read the Council evidence and the evidence filed on behalf of OHL. My rebuttal principally refers to the planning evidence of Austin Fox for the Council, Karl Cook for Okura Holdings Limited and Burnette MacNicol for Okura Rural Landowners, noting that the planning evidence in important areas relies on other expert evidence.

### 4. ISSUES

4.1 Mr Cook's Executive Summary<sup>1</sup> provides an appropriate basis for identifying issue areas. The summary has had regard to the Panel's Interim Guidance relating to best practice approaches to RUB matters (dated 31 July 2015). It also cover relevant RUB criteria proposed to be included in the PAUP<sup>2</sup>. In response to Mr Cook's summary I consider the issues to be as follows:

Statement a.

*Including the Okura land within the RUB would enable well-located, suitable development land for residential urban development (which is not abundant) to be developed efficiently to achieve a quality, compact urban form;*

Issue: Is it %most appropriate+to include this area in the RUB having regard to the provision made, or that can be made for growth in the region as a whole?

Statement b.

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<sup>1</sup> Karl Cook EIC, paragraph 5

<sup>2</sup> The criteria proposed to be included in Chapter B2.1 are listed in Paragraph 10.5 of Chloe Trenouth's Strategic Overview Evidence, 14 October 2015

*The Okura land that has been identified through a structure planning process and which is proposed for residential zoning avoids any scheduled areas with significant environmental, heritage, Maori, natural character or landscape values, commercially viable mineral resources, elite soils or high-quality rural productive land, and areas prone to natural hazards;*

Issue: Is it only %scheduled areas+that are relevant?

Statement c.

*While it does not directly follow property boundaries (although it could be modified to do so), involves a defensible boundary comprised of a topographical feature of a small ridgeline and a transition to countryside living;*

Issue: Are the RUB boundaries proposed %defensible+?

Statement d

*Unlike other land included within the RUB in the notified PAUP like that at Dairy Flat, infrastructure is available to ensure integration with land use which, in this instance, can be provided by the developer;*

Statement e

*Similarly, unlike other RUB land in the PAUP as notified, the Okura land has been structure planned, constraints have been identified and addressed, and residential and open space zoning and precinct overlay provisions proposed;*

Issue: Is the relative timing of provision of infrastructure and structure planning relevant?

Statement f.

*It will give effect to the National Policy Statement on Freshwater Management, the New Zealand Coastal Policy Statement, and the Hauraki Gulf Marine Park Act;*

Statement g.

*Will accord with and assist the Council in carrying out its functions so as to meet the requirements of Part 2 of the RMA.*

Issue: Are these statements correct?

## **5. BACKGROUND**

- 5.1** Okura has been the subject of much analysis and consideration over the last 20 years. This is well covered in other evidence, however it is important to my review to restate some important themes that can be derived from this history. In particular, relevant to the current issues I consider the question must be asked %What has changed?+.

**5.2** In the Environment Court decision *North Shore C.C. v Auckland R.C.* (A086/97) the Court considered the location of metropolitan limits in North Auckland at Long Bay / Okura<sup>3</sup>. In respect of population growth the Court acknowledged that Long Bay / Okura was the only remaining greenfields area in the North Shore, and it was able to be serviced with infrastructure. Apart from urbanising greenfields the only way of meeting pressures for more households in the North Shore was for intensification of existing urban areas. However the Okura Estuary was the last area of the east coast of North Shore City unaffected by urban development and largely retained its natural quality.

**5.3** In respect of landscape concerns the Court stated:

- Of a total of 104 landscape units delineated along the Auckland urban area coastline, only 7 were identified as warranting classification as outstanding landscapes. The Okura River Estuary unit was one of them. (Page 27)
- ō urbanisation of the area would bring about a fundamental change to the character of the landscape. (Page 28)
- [Ms de Lambert] gave the opinion that the coastal and eastern coastal hinterland areas of Long Bay/Okura are significantly more sensitive to development because of landform and association with the landscape values of the coastal environment. (Page 28)
- ō there is a close relationship between the part of the subject land in the Okura catchment and estuary and that it would not be realistic to expect that urban development of the land could be effectively disguised or the visual and landscape effects of that development on the environment could be adequately mitigated. We find that planting along the banks would not be sufficient for that purpose. (Page 29)
- The landscape assessment and the planning instruments, place high values on the landscape of the margins of the Okura River and the estuary. We accept that the landscape values in the Okura catchment are worthy of protection. We find that any urbanisation of the Okura catchment would bring about a fundamental change to the landscape characterō .. We find that the landscape quality of the Okura Estuary and its margins is so high, and the likely visual effects on the environment of urbanisation of the part of the subject land within its visual catchment are such as to indicate that in those respects it should not be urbanized. (Page 29/30)

**5.3** In respect of ecological concerns the Court stated:

- We have concluded that urbanisation of the part of the subject land in the Okura catchment would necessarily have significant adverse effects on the environment of the Okura Estuary, and that the estuary, its high quality waters and ecosystem, possesses life-supporting capacity which deserves to be safeguarded ... We have found that the landscape quality of the Okura Estuary and its margins is so high, and the likely visual effects of urbanisation of the part of the subject land within its visual catchment are such, as to indicate that in those respects it should not be urbanised. (Page 40/41)
- However our findings about the adverse effects which urbanisation in the Okura catchment would necessarily have on the environment, in particular on the quality of the waters of the estuary and its margins, support a definition of the metropolitan urban limits so as to exclude the land in that

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<sup>3</sup> References are from Environmental Law Reports of New Zealand 1996

catchment. That is necessary to fulfil those aspects of the defined purpose of the Act described in paras (a), (b) and (c) of s.5(2). We find it reasonably foreseeable that future generations of Aucklanders will need accessible experience of an estuary in natural condition. The Okura Estuary is the last of its kind on the east coast of the North Shore which retains that condition. Urbanisation in the Okura catchment would not sustain the potential of the Okura Estuary to meet that need. The Okura Estuary possess a capacity to support life, largely due to its natural condition, and the high quality of its waters and ecosystem. Urbanisation of the part of the subject land in that catchment would necessarily result in a significant deterioration of the quality of the waters, to the extent that their life-supporting capacity would be imperilled. Although development controls, settling ponds and other measures would mitigate adverse effects of urbanisation on the waters of the estuary, they would not avoid them (Page 44)

#### 5.4 In respect of archaeological and historic concerns the Court stated:

- ō there are 60 archaeological sites which have been recorded and the entire area is of archaeological and historic significance, as those sites are identifiable places in a landscape that was widely occupied. The recorded sites are mainly middens, but there are two paa recorded in Long Bay/Okura, one on the southern shore of the estuary and another near Vaughan Stream. There are 20 recorded sites with terraces and store pits and also unrecorded terraces, and also garden plots, store pits, field drainage and other historic sites. [Dr S E Bulmer] described a group of 9 sites to the west of the Okura settlement as appearing to be a concentrated settlement, a rare survival of that kind of complex, and deposed that she expected that similar complexes may be found to the east of Okura village and possibly in other valleys in the area (Page 39/40).
- Because stream valleys were the focus of inland settlement, Dr Bulmer urged that no development of sediment settling points in the valley should be allowed except with major archaeological investigation. She also considered that construction of house sites, drives and roads would potentially have a major impact on the archaeological landscape, and even on the reserves that are set aside on subdivision historic sites can be destroyed unless they are historic reserves and their management established (Page 40).
- On the evidence of Dr Bulmer, we find that there are a number of known archaeological and historic sites on the subject land and that there are likely to be more sites that have not yet been identified or recorded. (Page 40)

#### 5.5 In the Environment Court decision *Okura Green Society Inc & Ors v North Shore City Council* (A95/03 . 2003). North Shore City Council had proposed a 2ha subdivision standard for the subject area. Another party (Okura Estates) sought a 1ha average. The Court again assessed ecology and landscape matters, this time from the point of view of the appropriate density of development to be provided for. Cultural heritage matters were also assessed. The Court concluded that a 4ha standard should apply to the eastern area of Okura<sup>4</sup>. This is generally the area relating to the OHL submission. A 2ha average standard was to relate to the western area . this area is added to the 4ha area in the ORL submission that seeks the whole area east of East Coast Road to be added into the RUB.

<sup>4</sup> The relevant paragraph is quoted in Mr Fox's evidence at 8.10.

**5.6** In respect of the eastern area, the Court stated the following (at paragraph 104):

All things considered, a broad perspective is needed if the eastern area's natural character and environmental qualities in the wider coastal/estuarine context are to be sustainably managed, so as to accord with the Act's purpose. Viewed on that footing, we consider that the 1ha average lot size for comprehensive development, and even the approach suggested by NSCC, would produce too obvious an effect of cluster building presence for the area. The likely scenario would be a net adverse effect over an unacceptable length of time pending eventual achievement of a comprehensive "planted character". Were the area more capable of accommodating the "cluster concept" as of now, aided by significant tracts of mature planting already in existence (in contradistinction to the denuded landscape actually in being), a different outcome might have resulted. But having reflected upon all that was said, both by Mr Scott and Mr Hughes, in favour of Okura Estates' position, we confirm our conclusion as above.

**5.4** The above decisions informed later planning processes. For instance, in the Auckland Regional Growth Strategy (1999) Okura was identified among the list of areas to avoid due to their values and sensitivity (Pages 3, 28 and 50). In the Council report *Towards a Preferred Urban Form* (2011), Okura was identified as a *no go* area due to being catchments and landscapes that have long been identified as areas that should not be urbanised. Okura is not shown as a future development area in the Auckland Plan.

**6. WIDER CONTEXT**

**6.1** With regard to Mr Cook's Statement *a*, I acknowledge that OHL has been able to illustrate that an expansion of the RUB in this location would provide physically suitable development land for residential urban development. The land is also proposed to be developed efficiently to achieve a quality, compact urban form, although, as an extension to the existing urban area it would obviously not be as compact as leaving the RUB in its current location. I acknowledge also that, when fully developed, this area has the potential to be an attractive living environment.

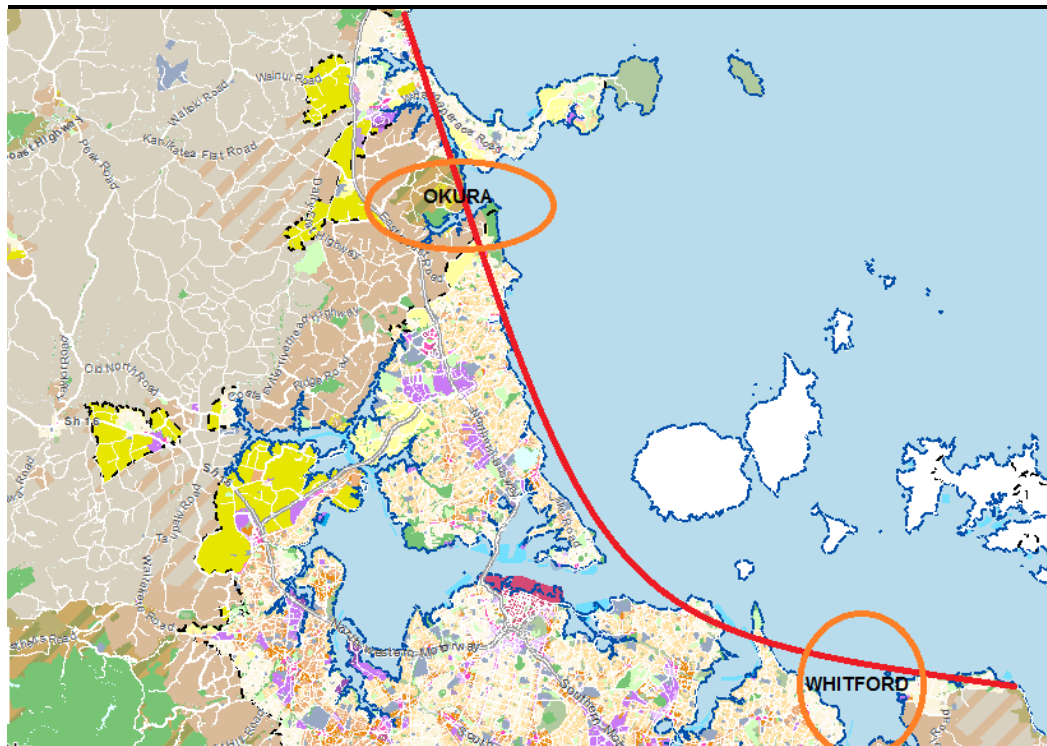
**6.2** The part of Mr Cook's Statement *a*, that I have an issue with is the reference to land for residential urban development not being *abundant*. I note that is a quote from Ms Trenouth's evidence (14 October 2015). However any suggestion that Okura may be required to provide sufficient land for residential development is incorrect. Ms Trenouth's evidence confirms that 11,000ha of land is zoned Future Urban Zone, and this provides sufficient land supply to accommodate projected population growth to 2040<sup>5</sup>. In any case, as is acknowledged in OHL's structure plan document, benefits of this proposal relating to increased land supply are *minor*<sup>6</sup>.

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<sup>5</sup> Ms Trenouth's evidence, 1.2(f)

<sup>6</sup> Okura Structure Plan, November 2015, 5.8

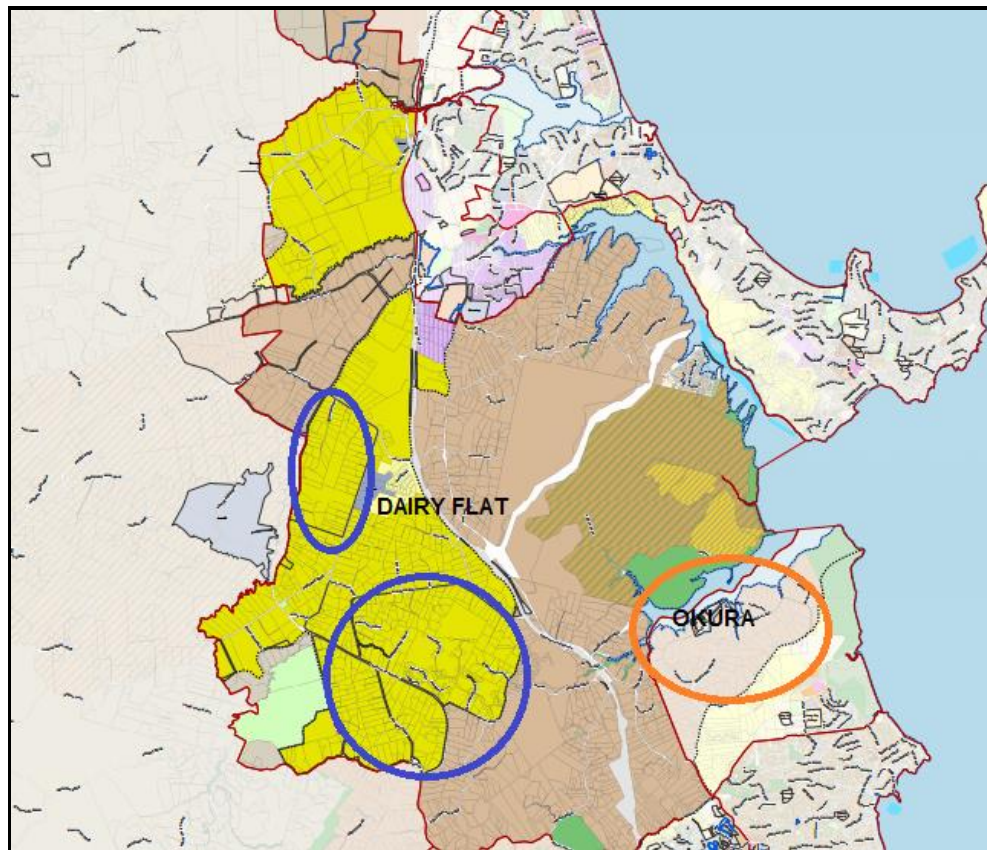
- 6.3** A major concern the ARC raised back in the 1996 / 1997 Environment Court proceedings was that issues needed to be addressed on a regional basis. This is in fact now the way that growth in the Auckland Region has been analysed. The former focus on TLA boundaries has now appropriately disappeared. Importantly, this has enabled growth options to be assessed on a relative as well as quantitative basis across the region.
- 6.4** One example of this is an expansion of the observation made by the Environment Court in 1997, that the Okura Estuary was the last area of the east coast of North Shore City unaffected by urban development. As shown in Figure 1, the Okura Estuary and the Whitford Embayments are the only sizeable breaks in the urban interface with the coast between Maraetai and Orewa. While I accept here that there would be a sizeable buffer between urban development and the coastline, a shifting of the RUB as proposed would, when combined with the development possible on the other side of the estuary at Weiti, effectively continue the urban line through the Okura area.



**Figure 1: Urban Interface with the coast**



- 6.5** It is significant that these same two areas along Auckland's East Coast were identified as 'Areas Susceptible to Degradation' in the Auckland Regional Policy Statement<sup>7</sup>. It follows as being sensible, in my view, that areas with less sensitivity should be considered first, before more sensitive areas are considered for urbanisation.
- 6.6** In that respect, I observe that in the general area of Okura, Auckland Council now proposes major changes to the areas identified for future urban development. Examples at Dairy Flat are indicated on the recently released zoning maps in Figure 2.



**Figure 2: Proposed Zoning Additions – Auckland Council (December 2015)**

- 6.7** I acknowledge the comments made by Ms MacNicol, that there are issues in the Dairy Flat land that is proposed to be added into the RUB (flooding, soils, defensible boundary)<sup>8</sup>. However, I expect that those matters have been part of the exercise Council has adopted in concluding what areas should and should not be included in the RUB. The Dairy Flat areas do not have any of the natural heritage and historic

<sup>7</sup> Referenced in 'Towards a Preferred Urban Form,' David Mead & Rachel Ritchie (2011: 19).

<sup>8</sup> Ms MacNicol's evidence, paragraphs 22 & 23

heritage resources (as represented by the relevant PAUP overlays) that are present at Okura. I do not share Ms MacNicol's concerns that the proposals now being pursued by the Council are inappropriate and in particular consider Dairy Flat to be a less sensitive area for urban expansion than Okura.

- 6.8** I conclude from these current proposals that there is no pressing need to enable urban development at Okura. This is relevant to the wider %balancing+evaluation I discuss later in this evidence.

## **7. ENVIRONMENTAL EFFECTS / SCHEDULED AREAS / NZCPS / PART 2 RMA/ RPS**

- 7.1** Having regard to the enabling premise of the Act, I acknowledge that there are a number of potential constraints to urban development that do not apply here. These include some of the matters listed in Paragraph 11d of Mr Cook's evidence. There are no significant issues relating to elite land, mineral resources, natural hazards, conflicts between residential activities and infrastructure or rural activities.

- 7.2** I further acknowledge the positive effects of OHL's proposal, principally in providing a coastal margin and some stream enhancement. However the positive effects of allowing public access may also lead to adverse effects from people and associated (e.g. cats and dogs) activities on the sensitive estuarine environment.

- 7.3** In respect of potential adverse effects it is the ecological, landscape / character and, to a lesser extent, cultural effects that I focus on. These are all significant resources in this location.

- 7.4** With regard to Mr Cook's Statement %b+, I acknowledge that Mr Cook has adopted the Panel's guideline as his basis for assessment. However in this case I consider it is important to also look beyond those guidelines and consider other parts of the statutory framework that need to be taken into account in any assessment.

- 7.5** There are a number of Part 2 matters are relevant, and, while I accept Part 2 is well known to the Panel, it is worthwhile recording what I regard as being the relevant parts here as they represent the large number of concerns that are present in this case (underlining added):

## 5 Purpose

- (1) The purpose of this Act is to promote the sustainable management of natural and physical resources.
- (2) In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while-
  - (a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and
  - (b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and
  - (c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.

## 6 Matters of national importance

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

- (a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development;
- (b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development
- (c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna;
- (d) the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers;
- (e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga;
- (f) the protection of historic heritage from inappropriate subdivision, use, and development;

## 7 Other matters

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to-

- (a) kaitiakitanga;
- (aa) the ethic of stewardship;
- (b) the efficient use and development of natural and physical resources;
- (c) the maintenance and enhancement of amenity values;
- (d) intrinsic values of ecosystems;
- (f) maintenance and enhancement of the quality of the environment;
- (g) any finite characteristics of natural and physical resources;

**7.6** RPS provisions are generally referred to by Ms MacNicol, Mr Cook and Mr Fox, however not in the detail I would consider necessary. In particular, I consider the following provisions are relevant<sup>9</sup>:-

### B.4.3.1

#### Objective 1

Subdivision, use and development is designed, located and managed to preserve the natural characteristics and qualities that contribute to the natural character of the coastal environment, wetlands, lakes and rivers and their margins.

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<sup>9</sup> I have adopted the latest wording proposed by Council - relevant Topics 010 and 006/007

#### Policy 4

Subdivision, use and development in areas adjacent to areas of outstanding and high natural character of the coastal environment must be managed to:

- a. avoid adverse effects on the natural characteristics and qualities that contribute to an ONC area's natural character values
- b. avoid significant adverse effects, and avoid, remedy, or mitigate other adverse effects, on the natural characteristics and qualities that contribute to an HNC area's natural character values
- c. maintain significant landforms and indigenous vegetation and habitats that are significant natural characteristics and qualities in ONC/HNC areas to protect the visual and biophysical linkages between the two areas
- d. avoid adverse effects on Mana Whenua values.

In implementing this policy the following matters should be taken into account:

- the extent of man-made changes to landform, vegetation, natural coastal processes and water movement
- the presence or absence of structures, and buildings or infrastructure
- The temporary or permanent nature of adverse effects
- the physical and visual integrity, and natural processes of the location
- the intactness of significant vegetation areas and vegetative patterns
- the physical, visual, and experiential values that contribute significantly to the wilderness and scenic value of the area
- the integrity of landforms, geological features and associated natural processes, including sensitive landforms such as ridgelines, headlands, peninsulas cliffs, dunes wetlands, reefs, fresh water springs streams or rivers, and surf breaks
- the natural characteristics and qualities that exist or operate across the MHWS and connect land in the coastal environment, including processes of sediment transport, patterns of erosion and deposition substrate composition and movement of biota, including between marine and freshwater environments
- the functional need for any proposed infrastructure to be located in the area
- the location, scale and design of any proposed development

#### B.4.3.2

##### Objective 1

Auckland's ONLs and ONFs are protected from inappropriate subdivision, use, and development.

##### Objective 5

Landscapes and features not identified as outstanding but which display particular values, sense of place or identity and high amenity value, are maintained and enhanced.

#### Policy 5

Protect the physical and visual integrity of ONLs by:

- a. avoiding the adverse effects of subdivision, use and development within the ONL on the natural characteristics and qualities that contribute to the values of the ONL
- b. maintaining the visual coherence and integrity of the ONL
- c. maintaining natural landforms, natural processes and vegetation areas and patterns
- d. maintaining the visual or physical qualities that make the landscape iconic or rare
- e. maintaining high levels of naturalness in ONLs that are also identified as ONC or HNC areas.

In implementing this policy the following matters should be taken into account:

*(generally as above)*

#### Policy 6

Manage subdivision, use and development on sites immediately adjacent to an ONL or ONF by:

- a. protecting the physical visual and biophysical linkages between the site and the ONL or ONF
- b. avoiding adverse cumulative effects on the values of an ONL or ONF
- c. avoid adverse effects on Mana Whenua values

In implementing this policy the following matters should be taken into account:  
(generally as above)

#### Policy 9

Maintain and enhance significant landscape values, sense of place and identity or amenity values found within landscapes and natural features that are not identified as being outstanding, by ensuring that zone and overlay provisions recognise and provide for the elements, patterns, processes and characteristics and qualities that contribute to such values, taking into account:

- The extent of man-made changes to the natural characteristics and qualities
- The presence or absence of structures, buildings or infrastructure
- The temporary or permanent nature of adverse effects
- The physical and visual integrity, and natural processes of the location
- The physical, visual, and experiential values that contribute significantly to the natural features values
- The functional need for any proposed infrastructure to be located in the area
- The location, scale and design of any proposed development

#### B.6.3

#### Policy 2 (a)

Manage land use, development, subdivision, discharges, and activities in the beds of lakes or rivers to:

- a. protect the significant values of wetlands and identified Natural Lake Management Areas, Natural Stream Management Areas, Wetland Management Areas and in Significant Ecological Areas

#### Policy 3 (a)

Manage land use and development, discharges and other activities to avoid where practicable, and otherwise minimise and reduce:

- a. adverse effects on the water quality and biodiversity values in identified natural lake, natural stream and wetland management areas and in Significant Ecological Areas.

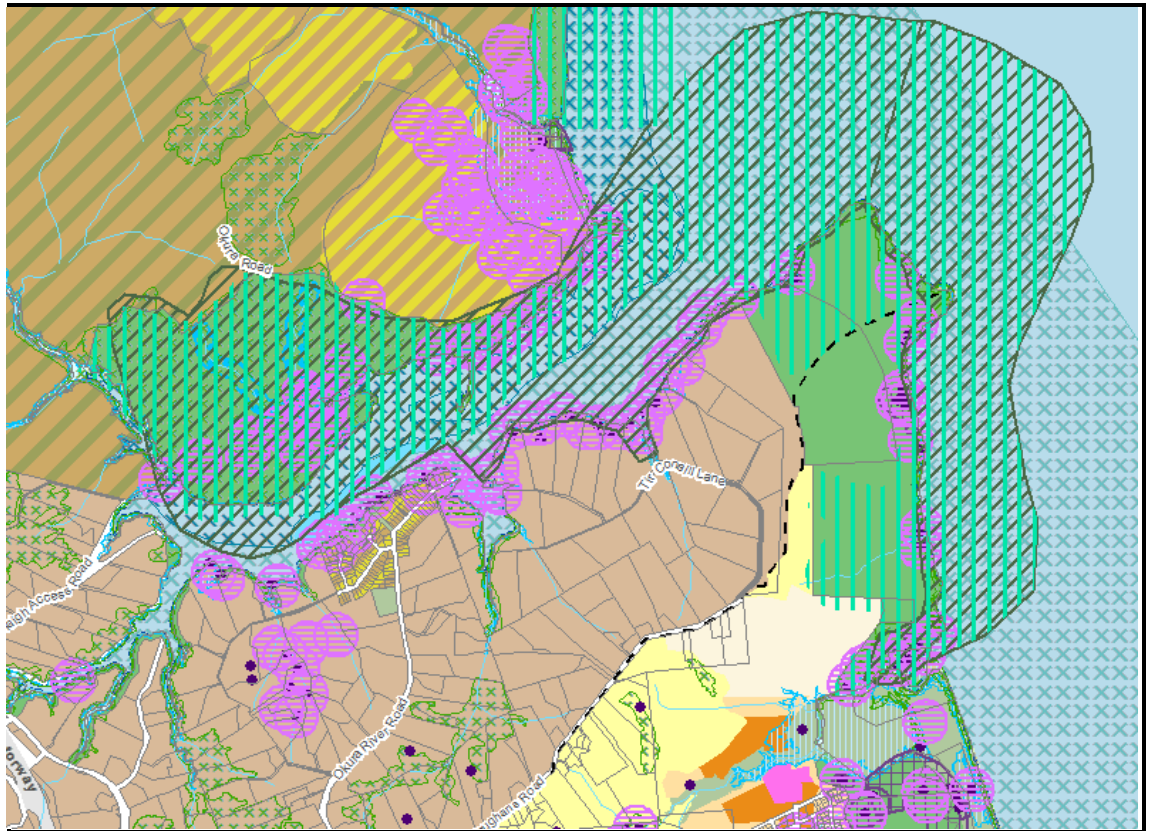
**7.7** The above provisions make it clear that the values of ONLs, HNCs and SEAs are to be recognised and protected, that significant adverse effects are to be avoided and that attention is to be given not only to scheduled areas, but also adjacent areas.

**7.8** The provisions in Part 2 and the RPS complement the NZCPS provisions that need to be given effect to. Ms MacNicol<sup>10</sup>, Mr Cook and Mr Fox all refer to the NZCPS. There does not appear to be any debate that the subject area is within the coastal environment, and I consider that a careful analysis under the NZCPS is essential in determining the outcome of the RUB position at Okura. The NZCPS provisions are attached at Appendix A to my evidence.

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<sup>10</sup> Ms MacNicol's evidence contains the most detail, paragraph 76.

- 7.9** The various notified PAUP Overlays are shown in Figure 3. These include an Outstanding Natural Landscape (ONL), High Natural Character area, Marine SEA and Sites and Places of Value to Mana Whenua. Figure 4 illustrates an extension of the ONL proposed by Council as a result of the Topic 019 hearings. I note that the Long Bay Okura Great Park Society have sought through Topic 019 that this ONL be extended further, to include all of the parkland adjoining OHLs proposed development (Di Lucas's Evidence Attachment 15).



**Figure 3 PAUP Overlays**





**Figure 4 Area Proposed to be Added to the ONL (OHL RUB Extension Area also shown)**

**7.5** In my view the planning evidence of Mr Cook and Ms MacNicol underemphasises the importance of these overlays. With the possible exception of a small part of the extended ONL that may be extended into the OHL land, I agree with Mr Cook that the areas to be developed are not within scheduled areas. However the relevant NZCPS provisions (specifically, Policies 11, 13 and 15) do not relate to effects ~~within~~ scheduled areas, but rather ~~on~~ scheduled areas. The policies also relate to areas that are not scheduled. The required management approach varies according to whether there area adverse effects (on scheduled areas) or ~~significant~~ adverse effects (other areas). The proposed RPD provisions I have referred to above are also relevant.

**7.6** I consider it to be very important that these RUB proposals be carefully assessed against these thresholds. In brief, (and recognising as a planner I should not stray too far into the area of legal interpretation) my understanding of *King Salmon* is that it confirms ~~avoid~~ means ~~avoid~~ and adverse effects are any adverse effects that relate to the characteristics and qualities of the identified resource.

**7.7** The ~~avoid~~+ threshold should be the easier one to determine. Adverse effects are either avoided or they are not. As I understand it, there is no scope for degrees of avoidance, or degrees of adverse effect. Confidence is required that:-

- (a) In respect of indigenous biological diversity any adverse effects on the resources listed under Policy 11 (a) must be avoided;
- (b) In respect of indigenous biological diversity significant adverse effects on the other resources listed under Policy 11 (b) must be avoided;
- (c) In respect of natural character significant adverse effects on the natural character of the coastal environment must be avoided (Policy 13(1)(b) . (1)(a) is not relevant here as there is no identified area of outstanding natural character);
- (d) In respect of natural landscapes any adverse effects on outstanding natural landscapes in the coastal environment must be avoided; and
- (e) In respect of natural landscapes any significant adverse effects on other natural landscapes in the coastal environment must be avoided;

**7.10** It is not within my expertise to conclude with confidence whether or not these thresholds are met. I certainly do not have the confidence to reach the firm statements Mr Cook makes in paragraph 19 of his evidence, which I do not consider are justified having regard to all of the other evidence. Having read the evidence I consider that there is in the least some reason to doubt whether the proposals of OHL (and ORL) give effect to the NZCPS.

**7.11** In respect of landscape matters, Di Lucas in her evidence presents her view that there will be adverse effects on the areas identified as outstanding natural landscape and high natural character.

**7.12** In these respects, Mr Pryor's landscape evidence and Ms MacNicol's planning evidence for ORL appear to rely heavily on changes that have occurred since the previous assessments made by the Environment Court, when the current MUL was set. In my view Mr Pryor and Ms MacNicol have missed the point that the Court, when reaching their conclusions, knew that change would occur. The development that was enabled at Long Bay was taken into account, as was the potential for 2ha (west) and 4ha (east) development at Okura. I believe the Court understood well that these future events would have some effect on the natural qualities of the Okura



Catchment, but their assessment was that this was to be the acceptable limit of development beyond which those natural qualities could not be sustained.

**7.13** Ecological effects on the marine environment appear to be an unresolved issue, despite there having been an agreed joint statement. The potential for cumulative effects is a particular area of concern, and the degree to which adverse effects on the marine environment will occur appears to rely on very careful management. Given the sensitivity of the marine environment I consider that a confident conclusion needs to be made. I note that Policy 3 of the NZCPS requires a precautionary approach towards proposed activities whose effects on the coastal environment are uncertain, unknown, or little understood, but potentially significantly adverse.

**7.14** I note also the RMA definition of ~~effect~~ (section 3) that includes (d) any cumulative effect which arises over time or in combination with other effects, and (f) any potential effect of low probability which has a high potential impact.

**7.10** This area clearly has a rich cultural history. ~~Okura~~ means ~~the~~ dwelling place of Kuraq and applies to the Okura area and pa (Dacre Point) to the north of Long Bay. The submitted structure plan outlines consultation that has occurred with iwi. The response from Te Kawerau a Maki<sup>11</sup> has been one of concern, and, amongst other matters, refers to this as being a cultural landscape. The identified archaeological sites which are clustered along the coastal margin are intended to be protected but the wider cultural landscape extends beyond this. I acknowledge the proposal to protect most recorded sites, and that there is scope to recognise traditional linkages across the landscape between the development clusters. However I consider this to be a case where cultural concerns are marginalised, simply urban development, with its inevitable changes including substantial earthworking of the landform, will significantly alter that cultural landscape. On its own, I would not regard this as a fatal impediment to the proposals, but it is certainly a factor that needs to be recognised.

## **8. DEFENSIBLE BOUNDARY**

**8.1** OHL have proposed an extended RUB boundary to the coastline at the estuary, and at the southern end to a small ridgeline, with a transition to countryside living. ORL extend the latter boundary eastwards to East Coast Road.

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<sup>11</sup> I provide planning advice to Te Kawerau a Maki on a range of matters and have discussed Okura with them generally. However I have not been engaged by them in respect of this hearing.

- 8.2** I acknowledge the coastline could be regarded as a defensible boundary, as it is a strong natural edge. However, the question in my view must be ~~%~~what is being defended?+. In this respect, much of the emphasis seems to be on accommodating development within the RUB, and ensuring there is a defensible boundary to that. But in my view, attention should also be drawn to defending what is beyond the boundary . in this case an area with landscape, ecological and cultural sensitivity. In my view there is a serious doubt as to whether those values would be defended by extending the RUB to the coastline.
- 8.3** Conversely, the currently proposed RUB line along Vaughans Road does appropriately protect those values. In my view it is not a ~~%~~minor ridge+as assessed by Mr Pryor<sup>12</sup>. It is the major ridgeline in this area, separating, on one side, Long Bay from, on the other side, Okura.
- 8.4** The OHL proposal adopts a RUB line at its southern extent that follows a minor ridge. I do not agree with Mr Cook that this is an adequately defensible line. In that respect, I attach at Appendix 2 a series of cross-sections which extend from Okura Road across the land OHL proposes to include in the RUB. The ridge selected by OHL is a lower ridge than one further to the east. Once development occurs, the RUB line chosen will not, in my view appear as a logical boundary. It is far less defensible than the current line along Vaughans Road.

## **9. INFRASTRUCTURE AND STRUCTURE PLANNING**

- 9.1** I acknowledge this is in area that can be served with appropriate infrastructure, including road access. I am not sufficiently familiar with alternative growth options in this part of the region to offer an opinion as to whether the timing of development, from the point of view of accessing infrastructure, would be less of a concern here than elsewhere. I accept that is a relevant matter considering the strain the region is under to accommodate growth.
- 9.2** Structure planning is an important PAUP method, and one I support in ensuring that, before major planning decisions are made in such areas as RUB and zoning changes, a properly defined and comprehensive analysis is conducted.
- 9.3** My concern here is that the structure planning that has been conducted by individual submitters is not well defined, and is not comprehensive. In that respect, the principal

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<sup>12</sup> Rob Pryor's Evidence, paragraph 4.4

submissions that this evidence relates to have quite different approaches to zoning and development outcomes. One approach (ORL) proposes a 4,000m<sup>2</sup> standard across both east and west Okura, and bases its RUB argument on that. The other (OHL), leaves west Okura intact and proposes a mix including densities at a Mixed Housing Suburban level. These approaches are not integrated. The perverse outcome could be that OHL achieves its aspirations for Okura east and ORL achieves its aspirations only for Okura west. The relative development possibilities would reverse the current relative position, where the western area has been regarded as a little less sensitive than the eastern area. The cumulative effect of various options, together with other development that is possible in the area / catchment has not been assessed in the way I would have expected, for instance if the structure planning process had been conducted in a consistent manner, over a wider area. Further, as I have noted, I consider that structure planning would have extended beyond just the Okura area and considered other areas where growth pressures could be relieved.

## **10. CONCLUSION**

- 10.1** In paragraph 5.1 I have noted the complex and involved history of urban development pressures in Okura, and in particular the careful analysis that was conducted by the Environment Court in setting the MUL in the position the PAUP now proposes for the RUB. I have posed the question ~~what~~ what has changed?
- 10.2** I recognise the PAUP sets up a new planning environment and that past decisions are not determinative of outcomes now. However, many of the issues faced by the Court, which are fundamental issues relating to natural resource protection, are the same. In my view the environment has not changed beyond the point expected by the court when making its previous decisions. Some framework matters, including the introduction of the NZCPS 2010 and clarification in *King Salmon* as to how that framework is to be applied, have strengthened the thresholds that apply.
- 10.3** In respect of landscape effects, I see no change that would now justify a change in the RUB to the position proposed. The landscape is essentially the same.
- 10.4** In respect of ecological matters it appears to now be argued that a better result can be achieved than that envisaged in 1996 / 1997 / 2003. However, even if that is so, I

consider that any potential for additional adverse effects would be a reason not to allow urban development in this area.

**10.5** I have also raised concerns about effects on the cultural landscape. I recognise this is not a matter that has been pursued to this hearing by mana whenua, however I would have expected it to be given more attention by the submitters, particularly as part of the landscape assessments.

**10.6** My overall conclusion is that the following conclusions made in the 2003 Environment Court decision (A 095/2003) remain valid.

- In a regional context, the Okura Estuary is unquestionably significant for present and future inhabitants of wider Auckland. A factor recognized in the identification of the metropolitan limit in earlier litigation. In a broad sense, that determination has an important bearing on the emphasis to be applied in seeking to maintain the area's natural values, and in recognizing that the district's planning framework for the catchment needs clearly to reflect that the area lies beyond the metropolitan limits, without being regarded as an interim or short term form of transition to future urbanisation. (Paragraph 64)
- The promotion of sustainable management in the context of an area of such significance, both locally and regionally, is more complex than simply making provision for residential development in a countryside living sense. Moreover, in endeavouring to avoid any notion of a mere stepping stone to urbanisation, the anticipated pattern of change under the endorsed framework of control must be one that will present an obvious and continuing contrast to the pattern of development at Long Bay, and the comparative intensity of land use generally within the metropolitan limits. (Paragraphs 66 and 67)

**10.7** Finally, I consider that the following extract from Chloe Trenouth's evidence remains relevant. Applied to the sensitive environment in the Okura Catchment it confirms that urban development should be avoided<sup>13</sup>.

*Some areas can be highly constrained by environmental values that are not necessarily scheduled or able to be protected by scheduling because it is the consideration of overlapping environmental values that create an environment sensitive to the effects of urban development rather than a specific feature of the environment. Where urban development encroaches into catchments that are not currently urbanised or do not contain much urban development the potential to create significant adverse effects on the receiving environment needs to be considered. The Auckland Plan Scenario Evaluation considered a series of urban form scenarios concluding that urbanisation should be avoided in the most highly valued and sensitive areas in order to protect coastal and natural environments from the impacts of land use activities. Therefore where possible it is best to avoid development in catchments and areas that are not currently developed and are still of good quality.*

**Peter Reaburn**  
**17 December 2015**

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<sup>13</sup> Chloe Trenouth's EIC, paragraph 9.6(b)

## **APPENDIX B**



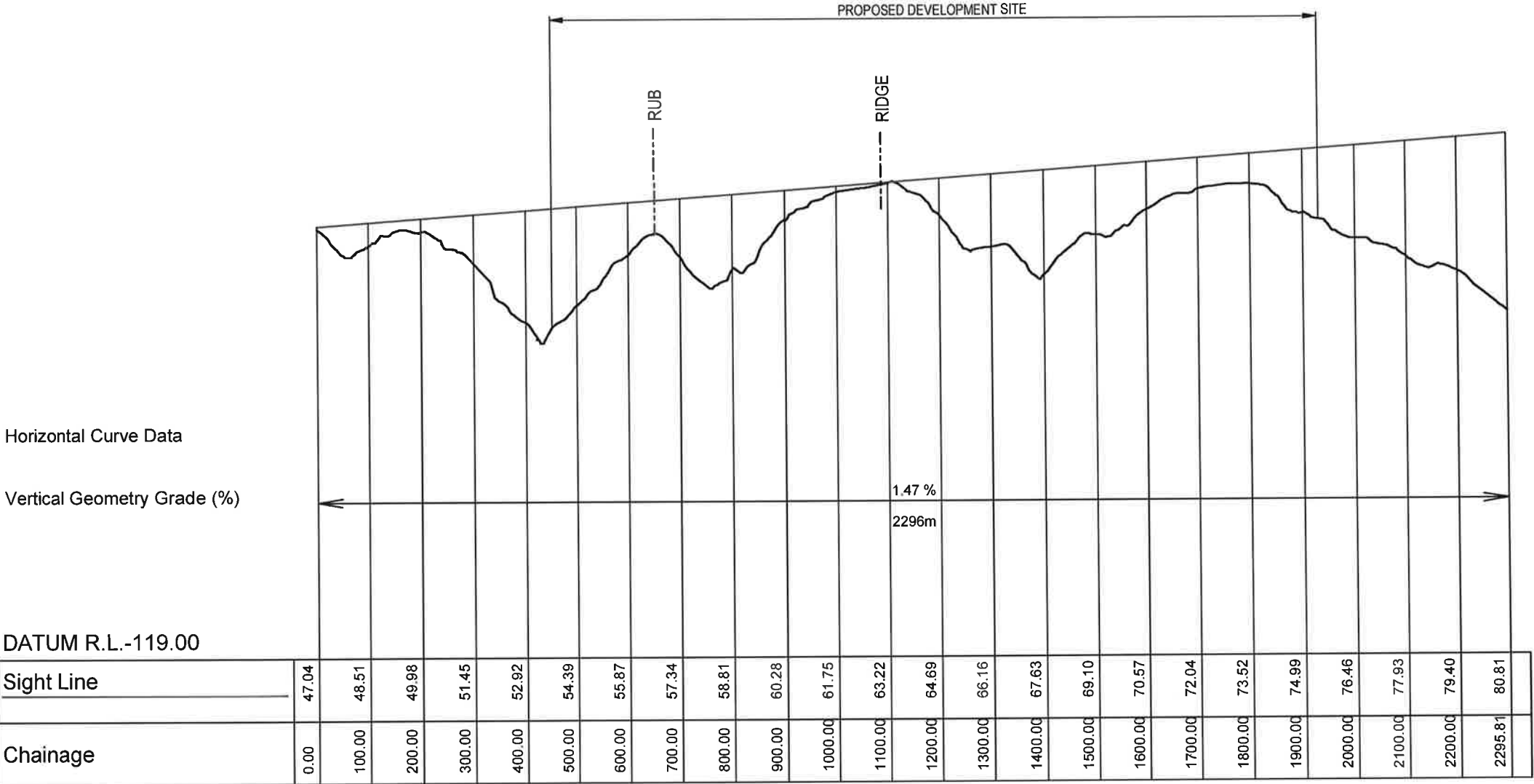












LONGITUDINAL SECTION SL3

Horizontal Scale 1 : 10000

Vertical Scale 1 : 2000

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No.	REVISION (DESCRIPTIONS)	NAME	DATE

	NAME	DATE
SURVEYED		
DESIGNED	XX	XX
DRAWN	XX	XX
CHECKED		
APPROVED		

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CLIENT

OKURA ENVIRONMENTAL GROUP  
OKURA RIVER ROAD  
OKURA

DRAWING TITLE

SIGHT DISTANCE LONGSECTION  
SHEET 4

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ORIGINAL SCALE 1:10000	ORIGINAL SIZE A3	REVISION NO
DATE 17/12/2015	CAD REFERENCE XR SIGHT LINE	SHEET NO 0005
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