

BEFORE THE INDEPENDENT HEARINGS PANEL
THE PROPOSED WAIKATO DISTRICT PLAN (STAGE 1)

UNDER the Resource Management Act 1991 (“**RMA**”)

IN THE MATTER OF hearing submissions and further submissions on the
Proposed Waikato District Plan (Stage 1) Hearing 3
Topic 3: Strategic Objectives

BY **HAVELOCK VILLAGE LTD**
Submitter

**REBUTTAL STATEMENT OF MARK SEYMOUR MANNERS TOLLEMACHE ON
BEHALF OF HAVELOCK VILLAGE LIMITED**
(PLANNING – STRATEGIC OBJECTIVES)

Dated: 22 October 2019

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1. INTRODUCTION

1.1 This rebuttal statement relates to primary evidence filed by:

- (a) Ms Alice Morris for Hamilton City Council;
- (b) Ms Marie-Louise Foley for Waikato Regional Council;
- (c) Ms Tanya Running for NZTA;
- (d) Mr Mark Davey for Waikato District Council; and
- (e) Mr Chris Scrafton for Pokeno Village Holdings Limited.

1.2 I confirm that I have the qualifications and expertise previously set out in my primary planning evidence¹

1.3 I repeat the confirmation given in my primary evidence that I have read the Code of Conduct for expert witnesses contained in the Environment Court Practice Note 2014 and that my evidence has been prepared in accordance with that Code.

2. EVIDENCE OF MS ALICE MORRIS FOR HAMILTON CITY COUNCIL

2.1 Ms Morris suggests amendments to Strategic Objective 1.13.2(b) in paragraph 29 of her evidence.

The ~~minimum targets~~ medium and long-term housing targets for sufficient, feasible development capacity for housing in the Waikato District area are met, in accordance with the requirements of the National Policy Statement on Urban Development Capacity 2016.

2.2 I agree with Ms Morris that the notified objective could be improved to manage growth in a more integrated and sustainable manner. The drafting identified by Ms Morris is better than the notified Proposed Waikato District Plan (**PWDP**) at articulating the requirements associated with the National Policy Statement on Urban Development Capacity 2016 (**NPSUDC**). I consider the approach of focussing on medium to long-term targets sets the correct planning context for the rapidly

¹ See paragraphs 2.1 – 2.4, Tollemache primary planning evidence for Havelock Village Limited for Hearing Topic 1 dated 16 September 2019.

growing District. It is also consistent with the policy direction of the proposed new National Policy Statement for Urban Development.

- 2.3 I support the intent of the amendment proposed by Ms Morris but continue to prefer the amendment to this provision outlined in my primary evidence (subject to amendment). My recommended amended Strategic Objective 1.13.2(b) is:

1.13.2 Strategic Objective – Urban Environment and Urban Development ~~Capacity~~ ~~Minimum~~ ~~Targets~~

- (a) *Liveable, thriving and connected communities that are sustainable, efficient and co-ordinated.*
- (b) *The medium and long-term ~~minimum~~ targets for sufficient, feasible development capacity for housing in the Waikato District area are ~~not~~ provided to accommodate residential growth, in accordance with the requirements of the National Policy Statement on Urban Development Capacity 2016.*

- 2.4 Ms Morris supports the reorganisation of Chapter 1.12 regarding Strategic Direction and the introduction of Chapter 1.13 for Strategic Objectives. For the reasons previously outlined in my primary evidence, I am concerned about the use of such plan provisions without a clearer understanding of their role and function in the PWDP hierarchy.

3. EVIDENCE OF MS MARIE-LOUISE FOLEY FOR WAIKATO REGIONAL COUNCIL

- 3.1 Appendix 2 of Ms Foley's evidence suggests a number of additional clauses to the objectives and policies of the PWDP.
- 3.2 I agree with the amendment to the header of Objective 4.1.1 (recommended to be 1.13.2) to delete the phrase "minimum capacity targets". This aligns with the approach of Ms Morris above which I support to move to medium and long-term targets, which aids in forward planning for growth rather than achieving the minimum. This is consistent with my primary evidence. I have proposed this amendment in paragraph 2.3 above.
- 3.3 Ms Foley recommends the inclusion of clause c) in Objective 4.1.1 (recommended to be 1.13.2):

c) The majority of new housing is located in urban areas (approximately 83 per cent).

- 3.4 I agree that growth should be directed to urban areas (both within and around) as it represents the most efficient and effective means to manage the District's resources in an integrated manner. The difficulty in adding a percentage is that this starts to read as a proxy for a rule, and the term 'majority' is achieved by 51% of growth being directed to urban areas (and consequently this undermines the actual direction sought). I do not consider that the drafting successfully implements the intent of the policy, and adding superlatives such as 'significant' or 'vast' and the like does not assist in expressing that almost all the District's growth should occur in the town and villages. I prefer that the policy relates to towns and villages (as settlements) rather than urban areas, as this reflects the pattern of urban areas in the District. To assist, I suggest amendments so the provision states:

c) Most of the District's new housing is located in or around towns and villages.

- 3.5 I am generally comfortable with Ms Foley's suggested amendment to add clause d) stating

New urban development provided for in this plan is integrated with infrastructure provision.

- 3.6 I believe the words 'new' and 'provided for in this plan' are superfluous. The later could create a conflict whereby urban development not anticipated by the Plan (ie. a non-complying activity) is exempt from the policy and therefore would not need to integrate infrastructure provision. I also consider the word 'provision' is unnecessary. I suggest the policy as amended to read:

d) Urban development is integrated with infrastructure.

- 3.7 I do not agree with the proposed note beneath Objective 4.1.1 (recommended to be 1.13.2). It does not assist with the interpretation of the Objective, and could narrow its purpose. It also is contrary to the amendments I proposed in my primary to the Objective which seek to remove the implication that the targets are minimums to be achieved and growth above those limits is somehow inappropriate.

3.8 I am concerned with the drafting amendments to Objective 4.1.2. As the majority of infrastructure to service development is established by the developers themselves, I do not consider it appropriate for this objective to result in restrictions on development in the settlements. The proposed amendments could do so. I consider it is important that the objective seeks to coordinate and enable development and infrastructure. The drafting of this objective is moving away from coordinating growth and infrastructure as I believe it was originally intended, to place an additional level of burden on development. I also do not consider that the terms 'nature' or 'necessary' are required in the proposed objective. Consequently I recommend amendments as follows:

(b) New urban growth and development is enabled where it is coordinated so that the nature, timing and sequencing of new development is provides appropriate infrastructure or where development aligns with the provision of infrastructure by Council or relevant agencies. ~~ed with the timing, sequencing, funding, implementation and operation of necessary infrastructure.~~

3.9 I also have concerns about Ms Foley's proposed policy 4.1.3(d), particularly with respect to the final two bullet points ie to minimise effects on "natural character" and "natural hazards". By its very nature urban development will affect natural character and to seek to minimise such effects will constrain growth. Natural hazard risks need to be managed rather than have effects minimised on them per se.

3.10 Ms Foley suggests a new clause (a)² to Policy 4.1.4 addressing staging. A number of mechanisms including additional rules are suggested, although it is unclear at this stage what the proposed rules would be (this can be addressed in the locations specific topics). It is likely that areas of urban zoned land are currently unserved, particularly given the planning horizons anticipated by the PWDP as compared with the current infrastructure projects identified in the Long Term Plan (LTP). I support the intent of Ms Foley's amendments, which allow for growth areas to be planned in an integrated manner (for example using structure plans), and where necessary for staging to be applied to the growth areas where infrastructure delivery is likely to be staged or sequenced. This approach is more practical and directive, and assists in addressing the common issue of infrastructure not being aligned with

² Two clause (a) are suggested, existing and proposed

growth, and is a better approach than the current drafting of Policy 4.1.4(a) alone.

- 3.11 Ms Foley's proposed new clauses (a) highlights a drafting issue I have identified in the existing Policy 4.1.4(a). The policy seeks that subdivisions and developments 'support' existing or planned infrastructure. I consider the Policy should be redrafted so that the requirement is for infrastructure to be established in a manner to 'support' subdivision and development (not the other way around which makes infrastructure the outcome of the policy rather than the enabling of development). 'Staging' should not be necessary if infrastructure is already available, and therefore the list should address this as a discretionary 'or' rather than a mandatory 'and'. It may not be necessary to stage development, and therefore this should be reflected in the Policy. Clause (ii) is considered to be superfluous as it repeats 'staging', infrastructure (which already includes reticulated networks such as stormwater referenced in clause ii), open space networks (which includes parks referenced in clause ii). My suggested amendments to Policy 4.1.4(a) are:

(a) Ensure that subdivision, use and development in new urban areas is:

(i) located, designed, and efficiently and effectively integrated ~~and or where necessary staged so it is supported by~~ ~~to~~ ~~adequately support~~ existing or planned infrastructure, community facilities, open space networks and local services; and

(ii) ~~efficiently and effectively integrated and staged to support infrastructure, stormwater management networks, parks, and open space networks.~~

4. EVIDENCE OF MS TANYA RUNNING FOR NZTA

- 4.1 Ms Running suggest amendments to Policy 4.1.5(a) in section 6 of her evidence as follows:

(a) ~~Encourage~~ Ensure higher density housing and retirement villages ~~to be~~ are located near to and support ~~where they have safe, efficient, and effective access to commercial centres, community facilities, public transport and open space~~ without being reliant on private vehicle use.

- 4.2 I do not support the proposed amendments. The policy in my opinion deliberately uses the approach of encouraging higher density housing.

Short of Council undertaking developments itself, it cannot 'ensure' that higher density housing or retirement villages occur in these locations. I would prefer the approach of 'enabling' these typologies in these locations because of the land use and transport integration opportunities which result. However, I do not consider that it is appropriate for a policy to restrict higher density housing or retirement villages to only those preferred locations, as such an approach could undermine other benefits from the provision of these typologies including a variety of housing to meet demographic trends and affordability issues facing the District.

- 4.3 The amendments to add 'where they have safe, efficient, and effective access' changes the intent of the policy from a land use and density distribution approach to a transport focus. This is emphasised by the addition of 'without being reliant on private vehicle use'. The amendments seek to establish absolutes which may be appropriate in central Auckland or Hamilton where modal choices are available, however in the District there is not a frequent public transport network. Consequently, residents do rely on cars. This is and is likely to be into the longer term the reality for the District. I do not consider that the policy assists in enabling higher density forms of housing, and places hurdles that could deter or prevent housing development which is appropriate and necessary to support growth.
- 4.4 I consider the policy could be improved by adding the imperative 'enable' instead of 'encourage' and to delete the phrase 'and support' as this does not assist a policy associated with the location of housing typologies.
- 4.5 Ms Running suggests amendments to Policy 4.7.6(a)(i) in section 7 of her evidence. I support these amendments. The additional amendment 'appropriate to the proposal is available or is otherwise' proposed by Ms Running assists in differentiating between existing capacity and that which is planned, funded or provided. I consider that the policy needs to acknowledge that infrastructure can be planned, funded and provided by developers, and this is commonly how infrastructure is developed at the time of resource consent.
- 4.6 The reference to 'appropriate to the proposal' also assists with considering the scale of infrastructure necessary to support subdivision and development, and this can support the staging of development where infrastructure limitations exist.

4.7 The planning for infrastructure can be associated with, for example, the Council providing this through its LTP and the Development Contributions Policy, or through direct provision and upgrades associated with a subdivision proposal. It is unlikely that all infrastructure necessary to support growth identified in the District Plan has been planned or funded. The Council work to a 10 year budgeting process through the 3 year LTP cycle. Consequently, it is likely that other arrangement such as conditions of subdivision consents or Private Development Agreements may be utilised, in addition to infrastructure being providing by relevant agencies.

4.8 I recommend that Policy 4.7.6(a)(i), as proposed by Ms Foley, is amended as follows:

*a) Ensure development and subdivision:
Is located in areas where infrastructure capacity (including for emergency and other services) appropriate to the proposal is available or is otherwise ~~has been~~ planned, ~~and~~ funded and can be provided by the relevant agencies, the development or subdivision proposal, or through other arrangements;*

4.9 Ms Running suggests amendments to Policy 4.7.7 in section 8 of her evidence. While I share the concerns that Ms Running has with the policy, adding preference to 'proven ... urban design outcomes or transport infrastructure requirements' is unclear and potentially inappropriate. Urban design outcomes is too open a concept and could mean "anything to anybody" given the range and flexibility of urban design approaches and assessments. I consider it creates more uncertainty rather than resolving the concerns I have with the policy as a whole as outlined in my primary evidence. It is also unclear how transport infrastructure requirements would reduce density within a residential zone. I do not support the amendments proposed by Ms Running.

4.10 Ms Running suggests amendments to the Pokeno and Tuakau policies in sections 12 and 13 of her evidence. I do not consider this is necessary as its repeating policies applying District-wide in Chapter 4 in each town. Repeating requirements for 'existing or planned infrastructure' does not add to the matters to consider in planning for growth if it is already a requirement of Policies 4.1.3 and 4.7.6. It is also inconsistent with the broader amendments suggested to this policy

direction by the Reporting Planner, Mr Matheson and Ms Foley for Policy 4.7.6(a)(i).

5. EVIDENCE OF MR MARK DAVEY FOR WAIKATO DISTRICT COUNCIL

- 5.1 Mr Davey has suggested new strategic directions and objectives in a standalone Chapter. I understand Waikato District Council's submission 697.314 seeks a stand alone chapter and for strategic objectives to have primacy (without text provided). However, Mr Davey is now proposing substantive additional strategic objectives. I consider substantive amendments, which could have a significant effect on the cascade of subsequent policies and rules, are better addressed through a Variation to allow community to input to these through submissions. While opportunities for formatting could be logical to assist with the clarity and usability of the PWDP, the insertion of new strategic directions and objectives, the text of which is not included in the submission, is likely to require a more robust first schedule process.
- 5.2 As outlined in my primary evidence, I consider that all the strategic directions should be deleted. However, in the event they are retained, I have considered the merits of Mr Davey's proposal. In the time available to evaluate the proposed strategic objectives through rebuttal evidence (noting that normally in a submission process parties would have at least 20 working days to consider a plan change), I make the following comments:
- (a) I generally agree with the premise that the PWDP lacks a clear cascade of high level objectives from which all the finer grain objectives and policies relate to. Without being critical, the PWDP reads as though it has been drafted by many people by committee, with objectives and policies jumping from high level place making concepts into very specific detailed areas. These tend to make the text disjointed and difficult to follow in terms of those objectives and policies that frame approaches across the District (place making) to those that are to be addressed through future resource consent applications. Consequently, Mr Davey's approach to draw the debate back to what is the strategic framework is likely to be necessary.

- (b) The proposed strategic directions in 2A.1 do not reference future generations, planning for the future, tangata whenua or growth management. These are principal resource management matters for Council to address and are missing from the text. Key section 6 matters are also not addressed.
- (c) The first sentence of clause (b) in 2A.1 does not need to reference 'walkways'. The second sentence of clause (b) is unnecessary and utilises ephemeral concepts such as 'shared sense of belonging'. This could mean all things to all people and does not assist in the drafting of a District Plan.
- (d) Clause (c) in 2A.1 more appropriately relates to the wider purpose of Local Government through the Local Government Act 2002 (**LGA**). It discusses participation, decision making, community led projects – all which relate to sustainable development as outlined by the LGA, but difficult to translate into tangible outcomes associated with the management of land use and subdivision in the District. Clause c) does not assist as a strategic direction for preparing the objectives.
- (e) I am comfortable with the drafting of clause d) in 2A.1. The concern I have is the strategic direction has no corresponding strategic objective, so the value of the direction is unclear.
- (f) I am entirely uncertain whether there should be a large number of other strategic directions identified. Consequently, I am uncomfortable with the proposed drafting as being reflective of all the relevant strategic directions, and consider that a number of proposed directions are not of assistance in Plan preparation or are worthy of being identified as strategic directions in the first place.
- (g) I am generally comfortable with the drafting of Strategic Objectives 2A.2.3, 2A.2.5, 2A.2.6, 2A.2.7, 2A.2.8, 2A.2.9, 2A.2.10, 2A.2.11 and 2A.2.12 although with the benefit of more time the objectives could still be improved.
- (h) The concern I have is in considering what other strategic objectives are missing from the list. For example, the enabling of new infrastructure, the role of Tangata Whenua and the

restoration of the Waikato River (as sought by the Vision and Strategy of the Settlement Act) come to mind.

- (i) I also find no basis in Mr Davey's evidence to delete reference to villages as a location to consolidate urban growth. In my opinion, villages are an important part of managing the efficient use of land resources in a rural District. They support land use and transport integration opportunities and are preferred as locations to support growth in rural environments where towns are not present.
- (j) Objective 2A.2.4 should reflect the imperatives and focus on Section 6 of the RMA to provide a focus on the natural environment. Creating green corridors as a as strategic objective relates to section 7 of the RMA matters, where sections 6(a) to 6(d) would be considered worthy of specific strategic objectives.

5.3 I consider that caucusing by the planning experts could assist the Hearing Commissioners in identifying those amendments that are supported, and also in identifying those objectives elsewhere in the PWDP that are now repeated and where this repetition is unnecessary. More importantly, there is also a lack of clarity between various submitters as to the role and function of these Strategic Objectives and how the policy cascade is intended to operate. I therefore remain of the view that the proposed Strategic Direction and Strategic Objectives sections of the PWDP should be deleted unless further work can be done to address these issues through the hearing process.

6. EVIDENCE OF MR CHRIS SCRAFTON FOR POKENO VILLAGE HOLDINGS LIMITED

6.1 I am not comfortable that the issues raised by Mr Scrafton regarding the use of and proposal for a Deferred Zone or Future Urban Zone (**FUZ**) or a structure plan process are appropriate to this hearing addressing strategic objectives and policies. The matters raised by Mr Scrafton are more appropriately addressed at the hearing addressing zoning in late 2020. I will leave my response on this issue until that time.

6.2 I agree with Mr Scrafton regarding the concern raised in Section 5 of his evidence regarding the minimum density target of Policy 4.1.5(b). I

raised the concern in my primary evidence that the Waikato Regional Policy Statement (**RPS**) does not prescribe minimum densities in the manner proposed by the WPDP. Mr Scrafton's evidence provides useful examples of how environmental constraints and market preference can result in densities less than the minimum targets of the Policy.

- 6.3 Mr Scrafton proposes a number of amendments in Attachment C to his evidence. I will address these in turn.
- 6.4 I agree with Mr Scrafton's amendments to Objective 4.1.1(b) to delete reference to the NPSUDC. This is unnecessary and it is likely that the NESUDC 2016 will be superseded in the future.
- 6.5 I agree with Mr Scrafton's new Objective 4.1.X regarding infrastructure. This drafting is better than amendments proposed by other submitters and is preferred.
- 6.6 I am comfortable with Mr Scrafton's amendments to Policy 4.1.3(b), however I prefer to delete references to Future Proof altogether. The deletion of the reference to the date of Future Proof, if this is possible as an externally referenced document, is helpful in addressing one of my concerns. It is consistent with the amendments outlined in my primary evidence.
- 6.7 The addition of clause c) to Policy 4.1.3 only works where the urban growth area is large enough to justify a structure plan or masterplan. Many of the zoning additions around the towns and villages incrementally add an additional property (which could be for example less than 10ha) to the residential zone, and this does not justify the need for a structure plan or masterplan where a scheme and engineering plan is sufficient to address the pattern of development.
- 6.8 Structure plans and masterplans as a process to support integrated development in the larger towns is supported. These towns will accommodate a significant proportion of the District's growth, and consequently large areas of land are required to be zoned residential. I support the use of structure plans (ie the actual plan itself) where they are included in the District Plan (in the manner of a Precinct as per the National Planning Standards). Structure plans and masterplans to be referenced in a policy in this manner will require a clear description regarding their purpose and content, so as to assist plan users.

- 6.9 Structure plans and masterplans developed through a resource consent process (like a comprehensive development plan) are not supported where they result in a two part consenting process, or a process whereby a resource consent is issued for a development pattern across third party land. The more appropriate approach, which should be clear in the policy, is for structure planning or master planning to be undertaken associated with the rezoning of land from rural to urban. Consequently, I suggest amendments to clause (c) as follows:

A master plan or structure plan is prepared for plan changes for rezoning urban growth areas associated with towns which addresses clauses (a) and (b)

- 6.10 HVL has prepared a master plan to accompany its submission to rezone land to residential and I consider that would satisfy this policy requirement.
- 6.11 Mr Scafton proposes amendments to Policy 4.1.11 associated with the Pokeno Structure Plan. In general I agree that it is appropriate that subdivision and development should be in general accordance with a structure plan where it is included in the District Plan. The concept of an 'approved' structure plan sitting outside of the District Plan raises concerns as to how it was approved, and the effect of that approval where it becomes an externally referenced document that development needs to be in 'general accordance' (as opposed to have regard to for other externally referenced documents). I do not consider that the 2008 Pokeno Structure Plan document should be referenced in the Policy (distinct from the actual structure plan map showing the layout of proposed roads, open spaces and development).
- 6.12 More fundamentally I oppose the suggestion that development in Pokeno can only occur in general accordance with the Pokeno Structure Plan. As outlined in my previous evidence there is a compelling need to grow Pokeno beyond the historic and outdated Structure Plan boundaries and to appropriately manage that growth.

- 6.13 If the actual structure plan map is included in the PWDP it should be included as a precinct plan and only apply to the same spatial area as the Pokeno Structure Plan.

Dated: 22 October 2019

MARK SEYMOUR MANNERS TOLLEMACHE