

Before an Independent Hearings Panel

The Proposed Waikato District Plan (Stage 1)

IN THE MATTER OF the Resource Management Act 1991 (**RMA**)

IN THE MATTER OF hearing submissions and further submissions on the Proposed
Waikato District Plan (Stage 1) Hearing 7:
Topic 7 – Industrial

**REBUTTAL STATEMENT OF MARK SEYMOUR MANNERS TOLLEMACHE ON BEHALF
OF HAVELOCK VILLAGE LIMITED**

(PLANNING)

Dated: 18 December 2019

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1. INTRODUCTION

1.1 This rebuttal statement relates to primary evidence filed by:

- (a) Adam Jellie for Pokeno Village Holdings Ltd
- (b) Adrian Hynds for Hynds Pipe Systems Ltd
- (c) Nicola Rykers evidence for Synlait Milk Ltd and Anna McLennan and Chanel Hargrave for Hynds Pipe Systems Ltd
- (d) Mark Arbouthnot for Ports of Auckland and Damian Ellerton for Genesis Energy

1.2 I confirm that I have the qualifications and expertise previously set out in my primary planning evidence.¹

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 ADAM JELLIE FOR POKENO VILLAGE HOLDINGS LTD

2.1 I generally agree with Mr Jellie that the Operative District Plan provisions of the Pokeno Structure Plan (Plan Change 24 and those for the Light Industry and Industry 2 Zones) could be maintained within the Proposed Waikato District Plan (**PWDP**). Ms Macartney has identified that a bespoke set of provisions could be retained for the Horotiu Business Park, and I agree with Mr Jellie that this provides an effective template for maintaining the Pokeno specific industry zone(s) activity tables and performance standards.

2.2 This aligns with the concerns raised by Mr Styles whereby regarding the Pokeno specific noise standards are proposed to be changed by the PWDP to increase the noise limits within the zones. The Pokeno Structure Plan, from my experience, was based on an integrated resource management approach between the distributions of zones in the structure plan area and the use of appropriate development controls and activity tables to manage the development of this community. The approach of a District-wide set of zones has altered aspects of this location specific approach, which

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

is inconsistent with the manner in which activities are managed by the Operative District Plan.

- 2.3 Mr Jellie also describes two methods available to establish 'buffers' between incompatible activities such as residential and heavy industrial being the application of zones and interface controls to restrict certain sensitive uses adjacent to heavy industry. While the distribution of zones has been utilised in Pokeno, other methods which could achieve the same outcomes are setbacks to physically create separation between activities to manage reverse sensitivity. These setbacks achieve the same outcomes as the interface controls in the Operative District Plan.

3. EVIDENCE OF ADRIAN HYNDS FOR HYNDS PIPE SYSTEMS LTD

- 3.1 Section 7 of Mr Hynds' evidence addresses submissions for rezoning land within Pokeno. These matters and the issues raised are more appropriately addressed during the rezoning topic where evidence regarding reverse sensitivity, noise, traffic and stormwater effects between proximate land uses can be addressed in substantive terms. This hearing is addressing the submissions associated with the Industry Zones of the PWDP, and the interface matters raised by Mr Hynds sit more logically in the rezoning hearing topic planned for late 2020.
- 3.2 Havelock (HVL) understands the matters raised by Mr Hynds and are proposing to prepare a comprehensive package of provisions and assessments to assist the rezoning hearings in 2020. This includes noise modelling from the Operative Industry 2 Zone to identify appropriate setbacks.

4. EVIDENCE OF NICOLA RYKERS FOR SYNLAIT MILK LTD AND ANNA MCLENNAN AND CHANEL HARGRAVE FOR HYNDS PIPE SYSTEMS LTD

- 4.1 Ms Rykers, Ms McLennan and Ms Hargrave (for Hynds) address Policy 4.6.7.² Their evidence seeks that only 'significant effects' on the interface need to be addressed and implies that all Heavy Industry zoned land should be surrounded by the Light Industry Zone.
- 4.2 While the Light Industry Zone may act as a buffer in some settlements between the Heavy Industry Zone and other more sensitive land uses and zones, this is not universal across the District or on the distributions of zones. Consequently, the recommendations that all Heavy Industry Zones should be surrounded by the Light

² HVL further submitted on Synlait's submission relating to Policy 4.6.7, see further submission 1291 at page 14.

Industry Zone is not practically achieved, nor could it be practically achieved through future rezoning. I consider that there are several methods available to manage reverse sensitivity effects, and not just the distributions of zones. These include setbacks which create separation between sensitive activities and Heavy Industry Zones or interface controls to manage certain sensitive activities as provided for under the Operative Plan for Pokeno.

5. EVIDENCE OF MARK ARBOUTHNOT FOR PORTS OF AUCKLAND AND DAMIAN ELLERTON FOR GENESIS ENERGY

5.1 Both Messrs Arbouthnot and Ellerton propose that the noise control be applied to dwellings constructed at a specific date. While this may be applicable for a specific scheduled activity, I do not support the use of this approach on a District-wide basis. This is because:

- (a) It does not protect dwellings constructed after the identified dates in the adjoining zones (potentially as permitted activities). Noise limits require ongoing compliance to ensure a requisite level of amenity is achieved and adverse health and safety effects adequately mitigated.
- (b) It would allow noise standards to exceed relevant amenity standards based on the date of construction of the dwelling. The effects of this may not be realised until well into the industrial use or adjoining residential development, as the noise generator could change from a benign operation to one which exceeds reasonable standards at any point in the future because the rule would reserve that right. This is inconsistent with the overarching statutory duty on occupiers to manage noise emission levels from their land to a reasonable level. Likewise, it could result in noise being generated in excess of what is required to create an existing use right.
- (c) It allows industrial activities to externalise their adverse effects, and where this relates to land where dwellings can be constructed as a permitted activity, it limits activities that could reasonably occur on these sites. This may in fact sterilise potential land use on adjoining third party land. No assessment has been undertaken as to the effects of this provision where it is proposed to be applied on a District-wide basis.
- (d) It creates a first in first served situation, which rewards the generator of adverse effects and penalises the party that arrives second.

- (e) The date when the PWDP becomes operative is unknown, so its effect on future development cannot be accurately understood or modelled. It is an arbitrary date.

5.2 I consider this approach could generate significant adverse effects on receivers, and that there is a lack of information and assessment to understand its effects where applied on a District-wide basis.

MARK SEYMOUR MANNERS TOLLEMACHE

Dated: 18 December 2019