

**BEFORE THE ENVIRONMENT COURT  
AUCKLAND REGISTRY**

**I MUA I TE KOOTI TAIAO O AOTEAROA**

**ENV-2022-AKL-**

**IN THE MATTER** of the Resource  
Management Act 1991  
(the **Act**)

**AND**

**IN THE MATTER** of an appeal under  
clause 14(1) of the First  
Schedule of the Act

**BETWEEN** **HYNDS PIPE  
SYSTEMS LIMITED**

**AND** **HYNDS FOUNDATION**

**Joint Appellants**

**AND** **WAIKATO DISTRICT  
COUNCIL**

**Respondent**

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**NOTICE OF APPEAL**

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**To:** The Registrar  
Environment Court  
Auckland

1. Hynds Pipe Systems Limited and the Hynds Foundation (together, **Hynds**) jointly appeal against a decision of the Waikato District Council (**Council**) on the Proposed Waikato District Plan (**PWDP**).
2. Hynds Pipe Systems Limited made a submission (submission number 981) on the PWDP, and both Hynds Pipe Systems Limited (further submission number 1341) and the Hynds Foundation (further submission number 1306) made further submissions on the PWDP.
3. Hynds are not a trade competitor for the purposes of section 308D of the Act.
4. Hynds received notice of the decision on 17 January 2022.
5. The decision was made by an Independent Hearings Panel appointed by the Council.
6. The parts of the decision Hynds is appealing predominantly relate to concerns over reverse sensitivity effects on Hynds' operations at its Heavy Industrial zoned land in Pokeno and include the:
  - (a) zoning of Havelock Village Limited (**HVL**)'s land at 88, 242 (in part) and 278 Bluff Road and 5 Yashili Drive (**HVL Land**) to a combination of General residential and General rural;
  - (b) inclusion of the Havelock Precinct Plan and associated provisions relating to HVL's Land (and reverse sensitivity more generally) in the Strategic Directions, General residential zone, General rural zone and Subdivision chapters of the PWDP. These include the provisions that relate to the Environmental Protection Areas (**EPA**) and Pokeno Industrial Buffer identified on the Havelock Precinct Plan;
  - (c) zoning of the properties at 39, 51 and 65 Pioneer Road as Rural lifestyle zone;

- (d) zoning of the property at 67 Pioneer Road owned by Steven and Teresa Hopkins (**Hopkins' Land**) as Rural lifestyle zone;
- (e) the permitted activity status for dwellings and minor dwellings within the General rural zone;
- (f) inclusion of a permitted activity threshold for vehicle movement of 250 movements per day from sites within the Heavy Industrial Zone. This part of the decision does not relate to reverse sensitivity effects but rather the provisions that apply to the Hynds Factory Site;

7. The general reasons for the appeal are as follows:

- (a) the parts of the Council's decision listed above will mean that the provisions of the PWDP:
  - (i) will not promote sustainable management, because the PWDP will not manage the use and development of natural and physical resources in a way that enables people and communities to provide for their social, economic and cultural wellbeing <sup>1</sup>;
  - (ii) will not achieve integrated management of the effects of the use, development or protection of land and associated natural and physical resources;<sup>2</sup>
  - (iii) will not adequately control the actual and potential effects of the use and development of land;<sup>3</sup>
  - (iv) will not achieve the efficient use and development of natural and physical resources;<sup>4</sup>
  - (v) are not the most appropriate way to achieve the purpose of the Act;<sup>5</sup>

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1 Section 5 Resource Management Act 1991  
2 Section 31(1)(a)  
3 Section 31(1)(b)  
4 Section 7  
5 Section 32(1)

- (vi) do not represent the most appropriate way of exercising the Council's functions, having regard to the efficiency and effectiveness of the provisions, in particular the assessment of the benefits and costs of the effects that are anticipated from the implementation of the decisions such as the opportunities for economic growth and employment;<sup>6</sup>
  - (vii) will not give effect to the Waikato Regional Policy Statement (**WRPS**);<sup>7</sup>
  - (viii) will not adequately or appropriately manage the effects of the activities to be enabled by the PWDP;
- (b) amendments to the PWDP provisions are required to address the above matters and ensure that the PWDP achieves the purpose of the Act.
8. Without limiting the generality of the above reasons, further reasons for the appeal are set out below, and in Appendix 1 to this appeal:

*Reverse sensitivity effects on Hynds' operations*

- (a) Hynds Pipe Systems Limited is owned by the Hynds Group, which is a family owned and operated business that specialises in the manufacture and supply of construction materials in New Zealand and Australia. Hynds has made a significant multi-million dollar investment to establish a regionally significant precast concrete manufacturing and distribution plant within the strategic industrial node at 9 McDonald Road, Pokeno (**Hynds Factory Site**). The directors of the Hynds Group have also established the Hynds Foundation, a charitable foundation. The Hynds Foundation owns the properties at 10 and 62 Bluff Road, Pokeno, adjacent to the Hynds Factory Site.
- (b) The Hynds Factory Site operates 24 hours a day and manufactures critical building supplies. Hynds' investment into the Hynds Factory Site in 2004 was in the expectation that it would be in operation for 70 plus

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6 Section 72, Section 32(1)(b)(ii)  
7 Section 75(3)(c)

years. Hynds has firm plans to continue to develop the Hynds Factory Site in the years ahead, and to develop all of its other industrial zoned land off McDonald Road to expand its existing concrete products business and introduce new industrial businesses to Pokeno.

- (c) Hynds is concerned that the parts of the Council's decision referred to above will mean that the PWDP does not provide adequate protection for activities in the Heavy Industrial Zone so that Hynds can continue to operate, and adapt or grow its operations.
  
- (d) Specifically, Hynds opposes the provisions that enable the HVL development because of the potential for reverse sensitivity effects. HVL's land is located on the hills above the Hynds Factory Site and parts of the land directly overlook Hynds' operations. In particular:
  - (i) The location of sensitive activities in proximity to Hynds' Factory Site, particularly if those activities overlook Hynds' operations, creates a risk that those neighbours will make complaints about, and seek restrictions or changes to, Hynds' operations, thus creating reverse sensitivity effects;
  
  - (ii) Those reverse sensitivity effects could arise from the development of primary and minor dwellings on General residential and General rural zoned sites in proximity to the Hynds Factory Site;
  
  - (iii) In addition to the reverse sensitivity effects related to complaints regarding Hynds' existing operations, there is also the potential for Hynds to experience reverse sensitivity effects because it is unable to expand its operations or develop its business (including obtaining the necessary resource consents) due to the constraints that would necessarily arise as a result of sensitive land uses (including residential activities) establishing in proximity to the Hynds Factory Site;
  
  - (iv) A function of territorial authorities pursuant to s 31(1)(b) of the Act is "the control of any actual or potential effects of the use,

development, or protection of land...”, which includes reverse sensitivity effects. Provisions introducing residential zoning on elevated land overlooking a regionally significant heavy industrial activity without adequate protection against reverse sensitivity effects are therefore not the most appropriate, particularly in light of the requirement under the Act to consider the costs and benefits of the provisions;

- (v) A proposed plan which does not appropriately address reverse sensitivity effects will not achieve the integrated management or the effective use and development of the land. As such, the provisions of the PWDP are not the most appropriate;
- (e) Hynds opposes the Rural Lifestyle zoning that has been applied to the Hopkins’ Land for the reasons outlined in (d)(i) to (v) above.
- (f) Hynds also opposes the permitted activity status for new dwellings and minor dwellings in the General Rural zone where they will be in proximity to Hynds operations for the reasons outlined in (d)(i) to (v) above. Under the Operative Waikato District Plan (**Operative Plan**) the southern and western extent of the Industrial 2 Zone (including the Hynds Factory Site) was buffered from the Rural Zone by the Aggregate Extraction and Processing (**AEP**) Zone. There were no permitted dwelling rights within the AEP Zone and any dwelling required resource consent as a discretionary activity (Rule 35.4). In the Rural Zone a dwelling house or sleepout could not locate within the 500m of the AEP Zone without a resource consent or the written approval of the operator of the extraction site (Rule 23A.2.1.10). This rule applied whether or not the land was being utilised for an extraction activity. The AEP Zone and the associated provisions in the Operative Plan provided a high level of assurance to Hynds that there would be limited opportunity for sensitive activities to locate south and west of the Hynds Factory Site. It is appropriate that a similar form of protection for Hynds’ regionally significant industrial activity is carried over into the PWDP.

*Adequacy of the provisions dealing with reverse sensitivity*

- (g) Hynds supports the inclusion of provisions in the decisions version of the PWDP that will have the effect of reducing the extent of residential development overlooking the Hynds properties. This includes the introduction of Rural zoning above the RL100m line and the application of the Pokeno Industry Buffer and the EPA to various parts of the HVL Land.
  
- (h) However, if residential development is to be provided for on any parts of the HVL Land overlooking the Hynds Factory Site (noting that Hynds' primary position is that it should not be), the provisions of the PWDP will require strengthening, and amendments to ensure that they work as intended. In their current form they do not appropriately address reverse sensitivity and the interface between residential and heavy industrial land in Pokeno. In particular:

Higher order provisions relating to reverse sensitivity

- (i) The objectives and policies in the PWDP do not adequately or appropriately address the protection of heavy industrial activities from reverse sensitivity effects. For example, Policy GRUZ-P13 (Reverse sensitivity) does not refer to industrial activities in the list of activities requiring protection and therefore does not require sensitive land uses in the General rural zone to avoid or mitigate potential reverse sensitivity effects on Heavy Industrial zoned land;

Higher order provisions relating to the EPA and Pokeno Industry Buffer

- (ii) Rules relating to the EPA and Pokeno Industry Buffer have been incorporated into the PWDP but there are no accompanying objectives and policies that specifically relate to these rules to provide direction to prospective consent

applicants and consent authorities as to what those provisions are intended to achieve. In particular:

- There is a general policy on reverse sensitivity in the General residential zone provisions, but this does not specifically refer to (or differentiate between) the EPA or the Pokeno Industry Buffer (only to “building setbacks”) and does not provide any clarity on the expectations or purpose of these two separate mechanisms;
- While rules relating to EPAs have been introduced into the PWDP as a result of submissions, there is no accompanying framework of objectives and policies in the PWDP to support these rules and guide both consent applicants and consent authorities as to their purpose and the intended outcome;
- Similarly, new buildings for a sensitive land use within the Pokeno Industry Buffer are a non-complying activity but when a consent authority comes to consider the gateway tests under section 104D there are no objectives or policies specifically relating to the Pokeno Industry Buffer against which the application should be assessed. The Council’s decision refers to the Pokeno Industry Buffer as a “no-build area” but this is not supported by higher order provisions;

#### Rules applying to the Havelock Precinct

- (iii) The rules within the General residential and General rural zone chapters relating to the EPA and Pokeno Industry Buffer are not adequate or appropriate and will not achieve the result described by the Council in its decision or give effect to the provisions of the WRPS or objectives and policies of the PWDP that relate to reverse sensitivity;
- (iv) The provisions need to be clarified and strengthened to appropriately address reverse sensitivity effects on Hynds



and other industrial activities. The HVL Land has General industry, General rural, General residential and Rural lifestyle zoning applied to it, as well as the Pokeno Industry Buffer and/or the EPA applied to various parts of the land. This creates a complex matrix and there are gaps in the provisions that apply across the different zones that need to be addressed. This is particularly because the Council's decision applied General rural zoning to the parts of HVL's Land above RL100m but the rules addressing reverse sensitivity and other effects that apply to the General residential zoning in the Havelock Precinct have not been carried across to this new area of Rural zoning. For example, the 5m height restriction on buildings within 50m of the Hilltop Park has been omitted from the General Rural Zone;

- (v) In addition, from the decision it appears that the Council has applied an EPA to some parts of the HVL Land on the assumption that this provides the same protection as the application of the Pokeno Industry Buffer. However, this is not the case because the activity status for buildings for sensitive land uses within the EPA (in either the General residential or General rural zones) is different to that which applies to land within the Pokeno Industry Buffer;
- (vi) Similarly, as currently drafted the subdivision provisions that seek to mitigate reverse sensitivity effects do not apply to all of the parts of the Havelock Precinct that will potentially overlook Hynds' site, despite the indication in the decision that they should.
- (i) Similarly, an EPA has been applied to parts of the Hopkins' Land. If the Court is minded to approve the Rural lifestyle zoning that has been applied to that land, then the provisions relating to the EPA require strengthening to address reverse sensitivity effects and to ensure a workable set of provisions that provide clear direction to future consent authorities and consent applicants as to the purpose of the EPA.

*Decision to rezone 39, 51 and 65 Pioneer Road as Rural lifestyle zone outside the scope of submissions*

- (j) There were no submissions seeking to change the General rural zone applied to 39, 51 and 65 Pioneer Road in the PWDP as notified. Consequently, the Council did not have the jurisdiction to alter the zone of those properties to Rural lifestyle in the decisions version of the PWDP. Hynds would have lodged a further submission in opposition to any submission seeking a change to the zoning of those properties on the basis of reverse sensitivity effects.

*Permitted activity for dwellings and minor dwellings in the General rural zone*

- (k) In its primary submission Hynds sought that a zoning be applied to the land adjacent to the Heavy Industrial zoned land that restricts residential activity, or alternatively amendments to the Rural zone provisions so that residential development or subdivision adjacent to the Heavy Industrial Zone is prohibited or restricted (i.e. a non-complying activity status or similarly restrictive provisions). Under the decisions version of the PWDP any new or redeveloped dwelling or one minor residential unit (per site) is a permitted activity. Hynds' position is that this is overly permissive for rural zoned properties in proximity to Hynds' operations, given the potential for reverse sensitivity effects.

*Permitted activity thresholds for vehicle movements*

- (l) Hynds is also concerned that the permitted activity threshold for vehicle movements within the Heavy Industrial Zone does not appropriately enable Heavy Industrial activities of Hynds' scale. Accordingly, it considers that the PWDP provisions are not the most appropriate. The Hynds Foundation's further submission supported Synlait's request in its submission that the relevant rule be amended to increase the number of permitted movements.

- 9.** Hynds seeks the following relief:
- (a) Remove the Havelock Precinct and all related provisions from the HVL Land and retain the General rural zone as set out in the PWDP as notified;
  - (b) notwithstanding sub-paragraph (a) above, in the event that the Court is minded to approve the Havelock Precinct and related provisions in some form, Hynds seeks amendments to the provisions of the relevant PWDP chapters to more appropriately address reverse sensitivity effects on Hynds' operations. Such amendments could include those set out in Appendix 1 to this notice of appeal; or
  - (c) any alternative relief of the like effect; and
  - (d) that the Rural Lifestyle zoning applied to 39, 51 and 65 Pioneer Road and the Hopkins' Land is declined and General rural zoning retained (with restrictions on establishing dwellings and minor dwellings on that land as set out in (e) below);
  - (e) that a more restrictive activity status is applied to dwellings and minor dwellings on General rural zoned land in proximity to the Hynds Factory Site;
  - (f) that the permitted activity standard for activities in the Heavy Industrial Zone is amended to provide for more than 250 vehicle movements per day (and with a larger proportion of the movements from heavy vehicles) from the Hynds Factory site; and
  - (g) such other orders, relief or other consequential amendments as are considered appropriate or necessary by the Court to address the concerns set out in this appeal.
- 10.** Hynds also seek costs of and incidental to the appeal.

11. Hynds attaches the following documents to this notice:
- (a) a table setting out the suggested specific amendments to the PWDP that it seeks to give effect to the relief sought and the reasons for those changes (**Appendix 1**);
  - (b) a copy of its submission and further submission (**Appendix 2**);
  - (c) a copy of the relevant decision (**Appendix 3**); and
  - (d) a list of names and addresses of persons to be served with a copy of this notice (**Appendix 4**).
12. Hynds agrees to participate in mediation or other alternative dispute resolution of these proceedings.

**DATED** at Auckland this 1st day of March 2022



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Bill Loutit / Sarah Mitchell  
Counsel for Hynds Pipe Systems  
Limited

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## **Advice to recipients of copy of notice of appeal**

### *How to become party to proceedings*

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal.

To become a party to the appeal, you must,-

- (a) within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in Form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
- (b) within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Act for a waiver of the above timing or service requirements (see Form 38).

### *How to obtain copies of documents relating to appeal*

The copy of this notice served on you does not attach a copy of the appellant's further submission and the relevant decision. These documents may be obtained, on request, from the appellant.

### *Advice*

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.

## Appendix 1: specific relief sought by Hynds to the provisions

	PLAN PROVISION	CHANGE SOUGHT BY HYNDS	REASON FOR THE CHANGE SOUGHT
1.	All provisions relating to the Havelock Precinct in their entirety	Notwithstanding the more specific relief set out below, Hynds seeks to amend any and all provisions that relate to the HVL Land to ensure that the PWDP contains workable and clear provisions that appropriately addresses reverse sensitivity effects and gives effect to the WRPS and Part 2 of the Act, including but not limited to the amendments set out in this table or such further or other relief as may be necessary to address the reasons for this appeal, including different amendments to those set out below.	See Notice of Appeal.
<b>Strategic Directions</b>			
2.	SD-O10	This objective provides that “existing activities are protected from reverse sensitivity effects”. This objective should be amended so it is not limited to “existing” activities and it specifically provides for the protection of regionally significant industrial activities from reverse sensitivity. There should be specific recognition given to the need to protect activities within the Heavy Industrial zone.	<p>The use of “existing” creates uncertainty (“existing” as at what date?) and does not address a key element of reverse sensitivity effects: that the presence of sensitive land uses nearby has the potential to influence the consideration of future consent applications for changes to existing industrial operations.</p> <p>The wording of the objective in the decisions version of the PWDP does not give effect to the WRPS, which at Policy 4.4 requires that the management of natural and physical resources provides for the continued operation <u>and future expansion and development</u> of regionally significant industry and primary production activities by...avoiding or minimising the potential for reverse sensitivity.</p>
3.	Additional provisions	Objectives and policies that are specific to the Havelock precinct to provide direction to prospective consent applicants and consent authorities as to what these rules are supposed to achieve and to provide a clearer framework for the consideration of future resource consent applications.	As noted above in the Notice of Appeal, specific rules such as the EPA and Pokeno Industry Buffer have been incorporated into the PWDP but there are no accompanying objectives and policies that specifically relate to these rules to provide direction to prospective consent applicants and consent authorities as to what those provisions are intended to achieve (i.e. avoiding and

PLAN PROVISION	CHANGE SOUGHT BY HYNDS	REASON FOR THE CHANGE SOUGHT
	<p>Given that the provisions that relate to the Havelock Precinct are currently spread across the General rural, Rural lifestyle, General residential and Subdivision chapters, these higher order provisions could be located:</p> <ul style="list-style-type: none"> <li>• within the “Strategic Directions” chapter; or</li> <li>• in these individual chapters; or</li> <li>• in a separate Havelock Precinct chapter within the PWDP (see relief below)</li> </ul>	<p>managing reverse sensitivity effects on the Heavy Industrial zone). The Act provides that the purpose of rules in a plan is to achieve the objectives and policies of the plan.<sup>8</sup> Without associated objectives and policies, the rules regarding the EPA and Pokeno Industrial Buffer do not comply with that requirement.</p> <p>As the provisions currently stand, there is considerable uncertainty created by the lack of supporting higher order provisions. The EPA overlay has been applied to other areas of Pokeno (and other parts of the Waikato District), including in areas where reverse sensitivity effects are not an issue.</p>

New Havelock precinct		
4. New Provisions	<p>The provisions relating to the HVL precinct should be consolidated into one multizone precinct chapter in the same way as the Te Kauwhata Lakeside and the Raglan Precinct in the PWDP. The Havelock Precinct provisions could include:</p> <ul style="list-style-type: none"> <li>• precinct-specific objectives and policies;</li> <li>• the EPA and Pokeno Industry Buffer provisions could be rationalised into one reverse sensitivity buffer applying to the interface between the HVL Land and heavy industrial zoned land that has provisions requiring legal protection to ensure that it is a no-build buffer and is planted with appropriate planting; and</li> <li>• rural zoning underneath the buffer.</li> </ul> <p>If the provisions relating to the Havelock Precinct are consolidated into a specific chapter then consequential</p>	<p>As currently drafted, the provisions relating to the Havelock Precinct are spread across multiple chapters, with inconsistencies in the way the provisions apply and no strategic direction from higher order provisions that are specific to the precinct. This is not the most appropriate way to give effect to Act or the WRPS.</p> <p>Consolidating the provisions into one chapter would create clearer, more workable provisions, with better direction provided to future consent authorities and consent applicants. It would address many of the consistency issues identified in this table.</p>

8 Resource Management Act 1991, s 76(1).

PLAN PROVISION	CHANGE SOUGHT BY HYNDS	REASON FOR THE CHANGE SOUGHT
	<p>amendments will be required to the General residential and General rural provisions, and would mean that many of the amendments set out below would not be required.</p>	
<p><b>General residential zone</b></p>		
5.	<p>PREC4-S2</p> <p>Amend <i>PREC4-S2 Building Setback – sensitive land use within PREC4 – Havelock precinct</i> so that:</p> <ul style="list-style-type: none"> <li>• for permitted activity status to apply new buildings or alterations to an existing building for a sensitive land use within the Havelock precinct must also be located outside the EPA identified on the planning maps (in addition to the current wording requiring that it be located outside of the Pokeno Industry Buffer); and</li> <li>• non complying activity status applies to applications for new buildings or alterations to an existing building for a sensitive land use within the EPA.</li> </ul> <p>In the alternative, the extent of the Pokeno Industry Buffer should be increased to include the areas within the EPA that are adjacent to the Hilltop Park and Hynds Foundation’s land at 62 Bluff Road.</p>	<p>To adequately address reverse sensitivity effects and create a consistent set of provisions for the Havelock Precinct, it is most appropriate that non-complying activity status for sensitive land uses applies to the EPA, and not just the Pokeno Industry Buffer. From the Council’s decision it appears that the Council has applied an EPA to some parts of the HVL Land with the intent that this will serve same purpose as the Pokeno Industry Buffer but with a different activity status for buildings this will not be the case.</p>
6.	<p>GRZ-S23</p> <p>Amend <i>GRZ-S23 Building setback – Environmental Protection Area</i> so that non-complying activity status applies when the rule is infringed, rather than discretionary activity status.</p>	<p>As above. Non-complying status is the most appropriate.</p>
7.	<p>Planning maps</p> <p>Amend the planning maps by removing the General residential zoning that has been applied under the Pokeno Industry Buffer and EPA and zoning that land General rural instead.</p> <p>If this relief is granted, then the relief sought at 5 above would not be required. Consequential amendments would</p>	<p>The Panel’s decision has retained the General rural zone in other parts of the Havelock Precinct and applying the General rural zone under the buffer with the adjacent industrial area would align with that. This amendment to the zoning would also result in more efficient and effective provisions in ensuring that it is a no build buffer, as compared to the General residential zone.</p>



PLAN PROVISION	CHANGE SOUGHT BY HYNDS	REASON FOR THE CHANGE SOUGHT
	also be required to the General rural and General residential chapters	
<b>General rural zone</b>		
8.	GRUZ-S2	Apply a more restrictive activity status to new dwellings and minor dwellings on General rural zoned land in proximity to the Hynds Factory Site. This could be achieved through either a setback or buffer provision.
		New dwellings and minor dwellings locating in proximity to the Hynds Factory Site could cause reverse sensitivity effects.
9.	GRUZ-P13	Amend <i>GRUZ-P13 Reverse sensitivity and separation of incompatible activities</i> to include industrial activities in the list of activities requiring protection from potential reverse sensitivity effects.
		The policy as worded does not refer to industrial activity in the list of activities requiring protection and therefore does not require sensitive land uses in the General rural zone to avoid or mitigate potential reverse sensitivity effects on Heavy Industrial zoned land.
10.	Additional provisions	Insert a rule equivalent to PREC4-S2 (General residential zone chapter) so that new buildings or alterations to an existing building for a sensitive land use within an EPA in the General rural zone is a non-complying activity.
		General rural zoning (rather than the General residential zone) has been applied to the parts of the HVL Land above RL100m by the Council's decision, so that residential development is precluded to address adverse landscape and cultural effects <sup>9</sup> . Some of that General rural zoned land has the EPA overlay applied, but the restriction on buildings in the EPA (as per the General residential zone provisions) has not been carried over into the General rural zone provisions. It is therefore most appropriate that a rule be included requiring buildings for sensitive land uses to be located outside the EPA in the General rural zone, in the same manner as the General residential zone.
11.	Additional provisions	Insert a rule equivalent to PREC4-S1 so that the same activity status applies to buildings and structures within 50m of the Hilltop Park within the General rural zone as the General residential zone.
		The Hilltop Park shown on the Havelock Precinct Plan is in the General rural zone, and General rural zoning also applies to the land immediately surrounding it. In contrast to the provisions for the General residential zone, there are no rules in the General rural zone controlling building and

<sup>9</sup> Waikato District Council *Decision Report 281: Zoning - Pōkeno* (17 January 2022) at [96].

PLAN PROVISION	CHANGE SOUGHT BY HYNDS	REASON FOR THE CHANGE SOUGHT
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structures within 50m of the Hilltop Park. This amendment is required to give effect to the Council’s intention to maintain Transmission Hill as a visually prominent feature.<sup>10</sup> There is only a small portion of General residential zoned land within 50m of the park so the provisions will not adequately address the adverse effects of the development enabled in the Havelock Precinct unless the amendment sought by Hynds is incorporated.

Subdivision		
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12.	SUB-R19	Amend <i>SUB-R19 Subdivision – building platform within PREC – Havelock Precinct</i> restricted discretionary activity standard so that all lots must be capable of containing a building platform located outside the Pokeno Industry Buffer and the EPA.	This amendment is a corollary of the amendments sought above to GRZ-S23 and is requested for the same reason.
13.	SUB-R21	Amend <i>SUB-R21 Subdivision – PREC4 – Havelock Precinct</i> by: <ul style="list-style-type: none"> <li>• Amending the restricted discretionary standard to include a requirement that the proposal include legal mechanisms to prevent construction of buildings and structures within the EPA and Pokeno Industry Buffer.</li> <li>• Amending the matters of discretion to refer to the inclusion of mechanisms to prevent construction of buildings and structures within the EPA and Pokeno Industry Buffer</li> </ul>	Despite the lack of higher order objectives and policies relating to the EPA, it appears that the intent behind the EPA is that this area be protected from development. The activity standards already specify that a proposal include legal mechanisms to retain EPAs in perpetuity and prevent further subdivision. It is most appropriate that these measures also extend to preventing development within the EPA. These measures should also be applied to the Pokeno Industry Buffer (which lies entirely within the EPA).
14.	SUB-R21	Amend <i>SUB-R21 Subdivision – PREC4 – Havelock Precinct</i> by amending the matter of discretion listed in SUB-R21(1)(n) so that it applies to all lots/building platforms on land with the potential to overlook Hynds’ operations, as opposed to just the land between the 40dba noise contour	The amendment is required to implement the intention set out in decision report regarding zoning in Pokeno that while residential development in “Area 2” (an area of concern to Hynds because of its potential for overlooking) should be permitted, reverse sensitivity effects should be addressed

<sup>10</sup> Waikato District Council *Decision Report 281: Zoning - Pōkeno* (17 January 2022) at [100].

PLAN PROVISION	CHANGE SOUGHT BY HYNDS	REASON FOR THE CHANGE SOUGHT
	and the Pokeno Industry Buffer shown on the planning maps.	through matters of discretion addressing subdivision design, earthworks contours and landscaping measures. <sup>11</sup> The provision as currently drafted does not give effect to that intention because it only applies to land between the Pokeno Industry Buffer and the 40dba noise contour. The matter of discretion as currently drafted will not adequately address reverse sensitivity effects on Hynds and so is not the most appropriate provision.
15.	SUB-R21  Amend <i>SUB-R21 Subdivision – PREC4 – Havelock Precinct</i> so that non-complying activity status (as opposed to a discretionary activity status) applies to subdivisions that do not comply with rule SUB-R21(1)(a)(iii) and (iv) relating to the creation of the Pokeno Industry Buffer and EPA, and associated legal mechanisms (with amendments to the requirements for those mechanisms to address the construction of buildings and structures as sought above)	The creation of the EPA and Pokeno Industry Buffer, and their legal protection in perpetuity from development, is a critical element that is required to appropriately and adequately address reverse sensitivity effects on Hynds' operations.
<b>Transportation</b>		
16.	TRPT-H4  Amend the permitted activity standard to provide for: <ul style="list-style-type: none"> <li>• More than 250 vehicle movements per day from the Hynds Factory Site without triggering the need to seek resource consent; and</li> <li>• An increased percentage of heavy vehicle movements allowed within the total number of movements.</li> </ul>	This provision would likely require Hynds to seek resource consent for any alteration to its existing activities or any expansion of its activities. This provision does not appropriately enable activity within the Heavy Industrial Zone. The current approach is a blanket approach that unduly restricts large operations.

11 Waikato District Council *Decision Report 281: Zoning - Pōkeno* (17 January 2022) at [101].

## **Appendix 2: Hynds' submission and further submission**

**Appendix 3: decision being appealed**

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