

**BEFORE THE ENVIRONMENT COURT
AUCKLAND REGISTRY**

I MUA I TE KOOTI TAIAO O AOTEAROA

ENV-2022-AKL-000072

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 **HAVELOCK VILLAGE
LIMITED**

Appellant

AND **WAIKATO DISTRICT
COUNCIL**

Respondent

**NOTICE OF HYNDS PIPE SYSTEMS LIMITED AND THE HYNDS FOUNDATION
WISH TO BE PARTY TO AN APPEAL**

22 March 2022

 **Simpson Grierson**
Barristers & Solicitors

W S Loutit / S J Mitchell
Telephone: +64-9-358 2222
Facsimile: +64-9-307 0331
Email: sarah.mitchell@simpsongrierson.com
DX CX10921
Private Bag 92518
Auckland

To: The Registrar
Environment Court
Auckland

1. Hynds Pipe Systems Limited and the Hynds Foundation (together, **Hynds**) wish to be a party to Havelock Village Limited (**HVL**)'s appeal (**Appeal**) in respect of the Waikato District Council (**Council**)'s decisions on the Proposed Waikato District Plan (**PWDP**). The Appeal has the Environment Court reference number ENV-2022-AKL-000072.
2. Hynds made submissions about the subject matter of the proceedings. In particular:
 - (a) Hynds Pipe Systems Limited made a submission¹ on the PWDP; and
 - (b) Hynds Pipe Systems Limited² and the Hynds Foundation³ made further submissions on the PWDP, including in relation to the submission lodged by HVL.
3. Hynds is not a trade competitor for the purposes of sections 308C or 308D of the Act.
4. Hynds is interested in all of the Appeal and in the entirety of the relief sought.
5. Hynds is interested in the following particular issues raised by the Appeal:
 - (a) the zoning of Hynds' land at 62 Bluff Road;
 - (b) the zoning and applicable provisions relating to HVL's site in Pokeno;
and
 - (c) the requested amendments to the zoning and provisions as described in Appendix 1 of the Appeal.

1 Submission number 981.

2 Further submission number 1341.

3 Further submission number 1306.

6. Hynds opposes the relief sought because:

Zoning and applicable provisions relating to HVL's site

- (a) Hynds operates a regionally significant precast concrete manufacturing and distribution plant within the strategic industrial node at 9 McDonald Road, Pokeno (**Hynds Factory Site**).
- (b) HVL's land is located on the hills above the Hynds Factory Site and parts of the land directly overlook Hynds' operations.
- (c) The relief sought in the Appeal includes:
 - (i) residential and business zoning of HVL's land above RL100;
 - (ii) removal of the Environmental Protection Area (**EPA**) overlay from "Area 1";
 - (iii) the addition of provisions in the General Residential zone enabling multi-unit housing.
- (d) Hynds opposes the amendments sought by HVL to the PWDP provisions, primarily because of the potential for reverse sensitivity effects.
- (e) 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. This will create reverse sensitivity effects. Hynds' position is that HVL's land is not an appropriate location for residential activities. Hynds has also lodged an appeal to the Environment Court that addresses this issue.⁴
- (f) 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

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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.

- (g) The relief sought by HVL would increase the potential extent and intensity of residential development on HVL's land, including in areas in proximity to and/or overlooking the Hynds Factory Site. Amending the PWDP in that way would:
 - (i) not provide for adequate protection for activities in the Heavy Industrial Zone and may limit Hynds' ability to operate, and adapt or grow its operations; and
 - (ii) cause reverse sensitivity effects on Hynds' operations.
- (h) The provisions supported by HVL (the decisions version of the PWDP, subject to the amendments set out in Appendix 1 of the Appeal), are not the most appropriate. In particular, the provisions that relate to the EPA, Pokeno Industry Buffer and other applicable provisions in the General residential and General rural zone chapters lack clarity and consistency, will not be effective and are not supported by specific objectives and policies providing direction to future applicants and consent authorities. These matters are addressed further in Hynds' Notice of Appeal.⁵

Zoning of 62 Bluff Road

- (i) The Appeal opposes the Heavy Industrial zoning that was applied by the Decision to part of 62 Bluff Road and seeks that all of 62 Bluff Road is zoned as General rural.⁶ Hynds opposes that relief.
- (j) 62 Bluff Road is owned by the Hynds Foundation and is adjacent to the Hynds Factory Site. It was purchased by the Hynds Foundation in 2019 after the hearings process for the PWDP had commenced. The previous owner of the property (Grander Investments Limited) lodged a submission seeking Heavy Industrial zoning for the whole site. Both

⁵ ENV-2022-AKL-000087.

⁶ Paragraph 7(c)(iii) of the Appeal.

Hynds Pipe Systems Limited and the Hynds Foundation's further submissions supported that rezoning request.

- (k) Hynds subsequently refined the relief sought in respect of 62 Bluff Road and sought that the lower portion of the land at 62 Bluff Road, adjacent to the Hynds Factory Site, be zoned as Heavy Industrial (**Expansion Land**) and that the remainder of 62 Bluff Road (representing the majority of the land) retain the notified Rural zoning.

- (l) The Council's decision to rezone the Expansion Land as Heavy Industrial reflected the expert evidence presented by Hynds that established that expanding the Heavy Industrial zone to include the Expansion Land was appropriate. Heavy Industrial zoning will allow the Expansion Land (which is currently lying fallow and not being put to use) to be developed for industrial uses which will in turn generate positive economic and employment outcomes for Pokeno and the Waikato region generally. It is the most appropriate zoning for that part of 62 Bluff Road.

- (m) The reason given for this part of the Appeal is that there was not "adequate consideration of potential adverse effects on surrounding residential activity and onsite freshwater wetlands".⁷ This reason is without merit given that:
 - (i) Full consideration was given to the freshwater values on the 62 Bluff Road site through Hearing 21 - Significant Natural Areas. This included expert ecological evidence addressing the National Policy Statement for Freshwater Management and the National Environmental Standards for Freshwater;

 - (ii) Expert evidence was presented at Hearing 25 – Pokeno which addressed the potential landscape and visual, noise, lighting, traffic and stormwater effects of Hynds' rezoning request to partially rezone 62 Bluff Road for Heavy Industrial purposes; and

⁷ Paragraph 8(g) of the Appeal.

- (iii) 62 Bluff Road is not “surrounded” by residential activity. The only residential activity proposed to be in proximity to the site is the proposed HVL development which was not zoned for residential activity in the notified version of the PWDP.

7. Hynds agrees to participate in mediation or other alternative dispute resolution of the proceedings.

DATED at Auckland this 22nd day of March 2022



Bill Loutit / Sarah Mitchell
Counsel for Hynds Pipe Systems
Limited and the Hynds Foundation

Address for service on Hynds:

Simpson Grierson
Solicitors
88 Shortland Street
Private Bag 92518
Auckland
Attention: Bill Loutit
Telephone: 09-358 2222
Facsimile: 09-307 0331
Email: bill.loutit@simpsongrierson.com / sarah.mitchell@simpsongrierson.com