

**BEFORE THE ENVIRONMENT COURT
AUCKLAND REGISTRY**

I MUA I TE KOOTI TAIAO O AOTEAROA

ENV-2022-AKL-000090

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 **STEVEN AND
TERESA HOPKINS**

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**
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To: The Registrar
Environment Court
Auckland

1. Hynds Pipe Systems Limited and the Hynds Foundation (together, **Hynds**) wish to be a party to Teresa and Steven Hopkins' 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-000090.
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 the Hopkins.
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 the entirety of the relief sought.
5. Hynds is interested in the following particular issues raised by the Appeal:
 - (a) the extent of the Heavy Industrial zone on 62 Bluff Road, which is owned by the Hynds Foundation; and
 - (b) the covenant which is sought to be imposed over 10 and 62 Bluff Road.

1 Submission number 981.

2 Further submission number 1341.

3 Further submission number 1306.

6. Hynds opposes the relief sought because:

Heavy Industrial zoning of 62 Bluff Road

- (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) 62 Bluff Road 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 Hynds Pipe Systems Limited and the Hynds Foundation's further submissions supported that rezoning request.
- (c) 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.
- (d) 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 allows the Expansion Land (which is currently lying fallow and not being put to use) to be developed for industrial use 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.
- (e) The Appeal seeks that the "industrial" zone be removed from "the elevated area of land" on 62 Bluff Road.⁴ Hynds opposes this relief and seeks the retention of the zoning shown in the Decisions version of the PWDP.

⁴ Paragraph 13(d) of the Appeal.

- (f) It is also noted that while the text of the Appeal challenges the decision by the Council to include elevated land within the extent of the Expansion Land,⁵ the map in the Appeal⁶ showing the relief sought and the area over which Heavy Industrial zoning should be removed does not appear to be consistent with this relief.

Covenant sought over 10 and 62 Bluff Road

- (g) Hynds' decision to seek the application of the Heavy Industrial Zone to the Expansion Land only, rather than all of 62 Bluff Road as sought in the submission, was in part because the Hynds Foundation was developing concept plans to revegetate and develop the upper part of 62 Bluff Road into a bush and open space sculpture park.
- (h) The Appeal seeks the imposition of a covenant over the balance of 62 Bluff Road and the adjacent 10 Bluff Road in favour of the Waikato District Council, with a requirement for the properties to be landscaped in accordance with the indicative plans presented by Hynds at the hearing.⁷ This relief is opposed by Hynds.
- (i) The imposition of a covenant of the type that is sought in the Appeal, without Hynds' consent (i.e. through an order of the Court including such a provision in the District Plan), would not be lawful. It is not within the relief that could be granted by the Environment Court in this type of proceeding.
- (j) In addition, the landscaping shown on the plan attached to Rachel de Lambert's evidence on behalf of Hynds was presented as a concept for how Hynds aspires to develop the upper portion of 62 Bluff Road, not as a final plan. Hynds is still developing the concept and has not yet applied for any resource consents that may be required. Hynds needs to retain flexibility over the future development of 62 Bluff Road, including to develop the proposed bush and open space sculpture park in a way that may depart in some respects from these initial concept plans. As is noted above, Heavy Industrial zoning is not being sought for either the 10 Bluff Road site or the balance of the 62 Bluff Road site.

5 Paragraph 11(a) of the Appeal.

6 Figure 3 of the Appeal.

7 Paragraph 13(e) of the Appeal.

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
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Limited and the Hynds Foundation

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