

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)

**MEMORANDUM OF COUNSEL ON BEHALF OF HAVELOCK VILLAGE LIMITED AND
TATA VALLEY LIMITED REGARDING TOPIC 25: ZONE EXTENTS: HEARING
ATTENDANCE DETAILS**

26 February 2021

BUDDLE FINDLAY

Barristers and Solicitors
Auckland

Solicitor Acting: **Vanessa Evitt / Mathew Gribben**
Email: vanessa.evitt@buddlefindlay.com / mathew.gribben@buddlefindlay.com
Tel 64 9 363 0770 Fax 64 9 358 2055 PO Box 1433 DX CP24024 Auckland 1010

MAY IT PLEASE THE COMMISSIONERS

- 1.1 We act for Havelock Village Limited¹ (**HVL**) and TaTa Valley Limited² (**TVL**) who are original and further submitters on the Proposed Waikato District Plan (Stage 1) (**Proposed Plan**).
- 1.2 We have received the request from the Hearings Coordinator dated 22 February 2021 for information regarding likely attendance at the hearing. We understand that the purpose of the information requested is to assist the Panel with scheduling of the hearing for Topic 25. In respect of the specific information requested:
- (a) HVL and TVL wish to attend the hearing;
 - (b) HVL has filed 11 statements of primary evidence. All witnesses will attend the hearing, counsel will present legal submissions and requests the opportunity to present submissions in reply if required; and
 - (c) TVL has filed 8 statements of primary evidence. All witnesses will attend the hearing, counsel will present legal submissions and requests the opportunity to present submissions in reply if required.
- 1.3 For completeness, we note that HVL and TVL have always anticipated requesting additional time³ to present their case at the Topic 25 hearing to allow for full consideration of their submissions, evidence and any contested issues as between parties in opposition or Council's reporting officers. In accordance with the Panel's directions, both HVL and TVL have filed extensive technical and planning evidence and section 32AA assessments in support of their proposed rezoning submissions. Given the number of witnesses they have called, the potential for evidence in opposition and the complexity of some of the resource management issues that may arise, limiting HVL and TVL's hearing time to the standard amounts would not allow full consideration of their submissions and evidence and may prejudice both submitters.
- 1.4 At this stage, HVL and TVL anticipate that a comprehensive hearing of their submissions and evidence, and any submissions and evidence in opposition, may require at least one hearing day each (i.e. one day for HVL's case and one day for TVL's case). The exact amount of hearing time required will depend on the recommendations in the Council's section 42A reports, the amount of evidence filed by further submitters in opposition and whether those submitters also wish to be heard. Our current expectation is that certain expert witnesses for example

¹ Submitter 862.

² Submitter 574.

³ Pursuant to Clause 29 of the Hearing Panel's Directions of 21 May 2019

planning, urban design and landscape and visual will require more than the standard 10 minute allocation. Counsel will provide the Panel with a more accurate estimate of the hearing time required after the receipt of submitter evidence/Council's s42 Report. TVL and HVL also wish to reserve their right to request additional time if that should be required in accordance with the Panel's Directions.

1.5 In addition, as part of this current scheduling process, Counsel requests that the Hearing Panel also consider:

- (a) The fair and efficient sequence of appearance for submitters and further submitters with respect to a specific rezoning proposal; and
- (b) The ability for each submitter to adequately respond to the case put forward by submitters in opposition (assuming they also wish to be heard).

1.6 In this regard, TVL and HVL consider that it would most efficient if all evidence related to its respective rezoning proposals (including from further submitters in opposition and council officers) could be heard together on individual hearing days (i.e. one hearing day for HVL and one hearing day for TVL). This will allow the Panel to better understand the submitters' primary evidence, issues in opposition and allow parties to respond immediately to questions from the Panel and any new issues that arise during the course of the hearing.

1.7 At this stage, HVL and TVL also respectfully request a right of reply to any opposing evidence given/material presented at the hearing of its submission. This could be done by way of an oral right of reply on the day or a written right of reply following the hearing or both. This approach is consistent with the right of reply granted to Ambury Properties Limited in respect of its rezoning proposal at Ohinewai. This right of reply will only be effective if all further submitters who wish to be heard are required to present on the same hearing day as TVL and HVL (or at the very least on a hearing day prior to TVL or HVL's case).

1.8 Finally, HVL and TVL wish to acknowledge that the Panel will be looking to run the hearing process for Topic 25 as efficiently as possible. To that end, if the Panel see any merit in pre-hearing expert conferencing to identify and reduce issues in dispute, TVL and HVL experts can be made available. As noted previously, Counsel will also

update the Panel regarding likely hearing time requirements closer to the hearing once the extent of submitter opposition and Council officer concerns is known.

DATED: 26 February 2021

A handwritten signature in black ink, appearing to read 'V S Evitt'.

V S Evitt / M G Gribben

Counsel for Havelock Village Limited and TaTa
Valley Limited