

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 EXTENT HEARING ARRANGEMENTS**

27 April 2021

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MAY IT PLEASE THE COMMISSIONERS

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**).
2. The purpose of this memorandum is to seek clarification on the dates for filing of witness highlights packages and legal submissions and if required, seek an extension to that timeframe to closer align with the relevant hearing of the submitters' rezoning submission and supporting evidence. It also provides an update on witness availability for the Pokeno hearing on 16-18 June.
3. Counsel has previously advised³ that both submitters wish to appear at Hearing 25: Rezoning, specifically the TaTa Valley and Pokeno hearing subtopics and requested additional hearing time. The TaTa Valley hearing is scheduled for 2 June and as noted above the Pokeno hearing on 16-18 June.

Clarification regarding timing for pre-circulation of legal submissions and highlights packages

4. In accordance with the First Standard Directions of the hearings commissioners, legal submissions and witness highlight packages for all previous topics have been provided to the Hearings Administrator *"at least 3 working days prior to the hearing session at which it is to be presented"*.⁴
5. More recently, the Waikato District Council hearing administrator has indicated that all legal submissions and highlights packages should be filed by 12 May being 3 working days prior to the commencement of the first hearing session for Topic 25 on 17 May.⁵
6. This appears to suggest that all highlights packages and legal submissions need to be filed by 12 May, despite most hearing sessions for Topic 25 not commencing for some weeks (ie until June or July) and Council's s42A rebuttal evidence only due to be received two days prior (ie on 10 May).
7. Given that Topic 25 has effectively been broken into separate subtopics/hearing sessions with the hearing schedule extended over a number of weeks, TVL and HVL respectfully request an extension to the Council's currently proposed filing date of

¹ Submitter 862.

² Submitter 574.

³ Memorandum of counsel on behalf of Havelock Village Limited and TaTa Valley Limited regarding Topic 25: Zone Extents: Hearing Attendance Details, dated 26 February 2021.

⁴ As required by the First Directions of the Hearings Commissioners dated 21 May 2019, at paras 27-31 and restated by reference in the Minute and Directions from the Hearings Commissioners on the Hearings for Rezoning Requests (Excluding the Ohinewai Area): Hearing 25 dated 12 May 2020, at subpara 12(g).

⁵ Memorandum of Council to the Hearings Commissioners Relating to the Release of the Zoning Framework Report dated 5 November 2020, at subpara 6(g) and again by email from the Hearing Administrator dated 22 April 2021.

12 May to closer align with its hearing subtopic dates. While we acknowledge that the Panel require time to pre-read all hearing material, we would suggest a more balanced approach would be to require pre-circulation of highlights packages/legal submissions 5 working days prior to the start of the relevant hearing session where:

- (a) This is more consistent with the Panel's original directions to file 3 working days prior to a hearing session;
- (b) Filing highlight packages and legal submissions only two working days after receipt of s42A rebuttal evidence on 10 May places unnecessary pressure on submitters and their expert team where the associated hearing session is still some weeks away. There may be insufficient time for submitters to review and assess appropriate changes in position prior to filing highlight packages and submissions on 12 May. As a result, any response presented to the Panel via highlight packages may not be as refined and considered as practicable given the time available;
- (c) The relatively lengthy period of time between the start of Topic 25 hearings on 17 May and many of the subtopic hearings means there is opportunity for further discussions and refinement of issues between submitters. Highlights packages and legal submissions on 12 May could therefore be out of date and need refinement by the commencement of subtopic hearings in June and July. It may therefore be inefficient to circulate material for pre-reading by the Panel, which only requires further updating at the hearing.

8. Counsel acknowledges that a number of further submitters on Havelock's rezoning proposal will likely be filing highlight packages and legal submissions in advance of the Pokeno hearing. To ensure no issue of prejudice arises, this amended pre-circulation date could be extended to all of those further submitters if they wish to take that additional time. With respect to TaTa Valley, Counsel are only currently aware of one further submitter who has filed evidence but a similar approach could be applied.

Current indication of time for hearings

9. In our memorandum of 26 February 2021, counsel noted that it would provide an update on its hearing time requirements for each hearing block closer to the hearing regarding once the extent of submitter opposition and Council officer concerns were known. Following the release of the s42A reports for both the TaTa Valley and Pokeno subtopics, counsel considers that a half day should be sufficient for TVL's case in relation to TaTa Valley and up to one day for HVL's case on its Pokeno

rezoning request. We will provide a final update following confirmation of submitter attendance later this month.

10. Counsel also respectfully reiterates its request for a right of reply to any opposing evidence given/material presented at the hearing of its submission.⁶

HVL Witness Availability for Pokeno hearing on 18 June

11. Finally, HVL was notified by the Hearings Administrator on 22 March 2021 that the dates for the Pokeno subtopic hearings have been set for 16-18 June. Its ecology expert Dr Graham Ussher has advised that due to a prior arranged family commitment he is not available on 18 June.
12. Accordingly, HVL respectfully requests that presentation of its submissions and evidence be scheduled for 16 or 17 June. If that is not possible, HVL requests that accommodation be made to allow Dr Ussher's evidence to be heard out of sequence by the Panel before 18 June.

Directions sought

13. In summary, HVL and TVL respectfully request that the Panel direct:
 - (a) All legal submissions and highlights packages for the TaTa Valley subtopic of Topic 25 be filed no later than **26 May 2021**;
 - (b) All legal submissions and highlights packages in relation to the Havelock rezoning proposal to be heard as part of the Pokeno subtopic of Topic 25 be filed no later than **9 June 2021**.

DATED: 27 April 2021



V S Evitt / M G Gribben

Counsel for Havelock Village Limited and TaTa Valley Limited

⁶ As requested in paragraph 1.7 of our memorandum of counsel.