

**BEFORE THE INDEPENDENT HEARINGS PANEL**

PROPOSED WAIKATO DISTRICT PLAN (STAGE 1)

Under the Resource Management Act 1991 (**RMA**)

In the matter of hearing submissions and further submissions on the Proposed  
Waikato District Plan (Stage 1) – **Hearing 10 Residential Zone**

By Hynds Pipe Systems Limited (Submitter, Further Submitter)

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**Statement of evidence by Chanel Hargrave, The Surveying Company Ltd  
(Planning)**

Dated: January 2020

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## **INTRODUCTION**

1. This evidence is prepared on behalf of Hynds Pipe Systems Limited in relation to the Proposed Waikato District Plan Residential Zone provisions. Hynds are both a submitter (S983) and further submitter (FS1341) on the Proposed Waikato District Plan.

## **Experience and Qualifications**

2. My full name is Chanel Yvonne Hargrave. I am a Senior Planner at The Surveying Company in Pukekohe. I hold a Bachelor of Planning (Hons) and a Masters of Urban Design (Hons) from the University of Auckland. I am an Intermediate Member of the NZPI.
3. My relevant professional experience spans seven years in a private sector role at The Surveying Company. I have been involved in a number of subdivision and land use (Regional and District) resource consent applications for both urban and rural projects. I have been the lead planner on projects from feasibility and design stage through to project completion. I have prepared submissions on behalf of clients and provided planning evidence for plan reviews and changes.

## **Code of Conduct**

4. I confirm that I have read the 'Expert Witnesses Code of Conduct' contained in the Environment Court of New Zealand Practice Note 2014. This evidence has been prepared in compliance with that Code in the same way as if giving evidence in the Environment Court. In particular, unless I state otherwise, this evidence is within my sphere of expertise and I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.
5. In preparing this statement of evidence I have read the s 42A report prepared by Alan Matheson and Louise Allwood, the Reporting Officers for Waikato District Council; the summary of submissions and any relevant submissions lodged in respect of Chapters 4 and 16; as well as any relevant information prepared for the District Plan review.

## HYNDS PIPE SYSTEMS LIMITED BACKGROUND AND SUBMITTER CONCERNS

6. Hynds Pipes Systems Limited (**Hynds**) is owned by the Hynds Group and operates a concrete manufacturing and distribution site at 9 McDonald Road, Pokeno (**Hynds Site**). The Hynds Site is zoned Industrial 2 under the Operative Waikato District Plan: Franklin Section (**Operative Plan**) and Heavy Industrial under the Proposed Waikato District Plan (**Proposed Plan**). The Hynds Site is located on the southern-most urban edge of Pokeno. The Hynds Foundation own the adjoining land to the south. This land is zoned Aggregate Extraction under the Operative Plan and Rural under the Proposed Plan
7. Hynds is a significant heavy industrial activity within the Pokeno area, utilising approximately 22ha of land and operating 24 hours a day and seven days a week to manufacture and supply concrete construction materials. Locational advantages, land availability, compatible zoning, access to key transport routes and a supportive planning framework have resulted in Hynds investing substantial capital to establish within the Operative Industrial 2 Zone.
8. The nature and scale of the Hynds operation means the activity generates high levels of noise, dust, heavy traffic and lighting. Under the Operative Plan the southern and western extent of the Industrial 2 Zone is buffered from the Rural Zone by the Aggregate Extraction Zone. Under rule 23A.2.1 of the Operative Plan a dwelling house, sleepout, farmers' market or equestrian centre shall not locate within 500m of any rock extraction site. A rock extraction site includes land specifically zoned for aggregate extraction. In addition, the Hynds Site is not subject to any noise restriction at the boundary with the Aggregate Extraction Zone. The location of the Aggregate Extraction Zone, adjacent to and adjoining the Hynds Site, provide a substantial buffer to protect Hynds operation from sensitive activities. This was one of the key reasons the land was zoned Industrial 2 and why Hynds chose to establish in Pokeno.
9. The Aggregate Extraction Zone within Pokeno is proposed to be re-zoned Rural. In addition there are a number of submitters (Havelock Village S862, Rainbow Water Limited S205 and Steven and Teresa Hopkins S451) who seek re-zoning of adjacent

land to Residential. Hynds have opposed the rural zoning of adjacent land as well as various submitter requests to re-zone surrounding land to residential.

10. Hynds submission and further submission seeks to ensure that Hynds are protected from sensitive activities to ensure efficient operation of their business. Hynds has serious concerns about the reverse sensitivity effects that would result from some of the zoning included in the Proposed Plan, and from the re-zoning requests made by a number of submitters. Hynds seek zoning that is compatible with their existing operation and planning provisions that restrict sensitive activities from locating in proximity to the Hynds Site. For these reasons Hynds will also be appearing at hearings later in the year in relation to the Rural Zone (Hearing 19) and Zone Extents (Hearing 25).

#### **SCOPE OF EVIDENCE**

11. This evidence is provided in support of Hynds submission. My evidence will focus on provisions that relate to reverse sensitivity. I will address the following provisions:
  - a. 16.3.9.2 Building setback –sensitive land use and 16.4.7 Title boundaries;
  - b. 16.4.1 RD1 (b) Matters of discretion for subdivision.
12. Hynds is not listed as a submitter or further submitter within the s 42A report and has not made specific submission points on the residential zone provisions. This is because the Proposed Plan, when notified, did not include any residential zoned land adjacent to the Hynds Site. However, the issue of reverse sensitivity from proposed re-zoning and sensitive uses is clearly raised in Hynds submission and therefore this evidence is within the scope of the submission.

#### **16.3.9.2 BUILDING SETBACK – SENSITIVE LAND USE AND 16.4.7 TITLE BOUNDARIES (SUBDIVISION)**

13. I support the building setback provisions for sensitive land uses (rule 16.3.9.2) and the title boundary setbacks for subdivision (rule 16.4.7) from intensive farming and extractive industry activities. I consider that this an appropriate method to manage reverse sensitivity in combination with other methods, including compatible zoning. I acknowledge that the buffer distances within the Proposed Plan are a

guide and support the inclusion of reverse sensitivity as a matter of discretion under rule 16.4.7(b) - title boundaries.

14. Hynds oppose residential re-zoning in proximity to their heavy industrial site at 9 McDonald Road. Hynds will present evidence to support their submission and further submissions on this matter at the Zone Extent hearings. However, if the Panel was minded to accept the residential re-zoning requests of concern to Hynds, Hynds will be seeking sensitive activity and title boundary setbacks to restrict residential allotments and sensitive activities within proximity to the Hynds site. To give effect to this request consequential amendments to rules 16.3.9.2 and 16.4.7(b) would be required. An indicative buffer area is shown on the Plan in Appendix A. This buffer extends to the ridgeline that looks down on the Hynds site from the west and south. Further evidence to support the extent of this buffer will be provided at the rural and re-zoning hearings.

#### **16.4.1 RD1(b) SUBDIVISION – GENERAL MATTERS OF DISCRETION**

15. Hynds seek the inclusion of reverse sensitivity as a matter of discretion for subdivision. The inclusion of reverse sensitivity will give Council discretion to consider the effects of residential subdivision on existing activities which may be incompatible with sensitive uses. Proposed policy 4.7.11 makes it clear that reverse sensitivity is an issue to be considered in subdivision design as follows:

##### **4.7.11 Policy – Reverse sensitivity**

- (a) Development and subdivision design minimises reverse sensitivity effects on adjacent sites, adjacent activities, or the wider environment; and*
- (b) Avoid potential Reverse sensitivity effects of locating new dwellings in the vicinity of an intensive farming, extraction industry or industrial activity.*

To give effect to this policy it is my opinion reverse sensitivity must be included as a matter of discretion.

16. Both Ports of Auckland and KiwiRail Holdings Limited seek the inclusion of reverse sensitivity as a matter of discretion. The Reporting Officer has rejected this request stating:

*the matter of reverse sensitivity is a matter that should have been addressed at the time of zoning land and the inclusion of provisions in the respective zones with respect to activities to address reverse sensitivity. In my opinion, this matter does not need to be included at subdivision [608].*

17. I agree that reverse sensitivity should be addressed through re-zoning to ensure compatible zoning and plan provisions that protect activities and infrastructure from reverse sensitivity. However, reliance on addressing reverse sensitivity solely at the time of land zoning will not capture all circumstances where reverse sensitivity may occur. The Proposed Plan includes zoning that may result in reverse sensitivity effects on existing activities. In some instance reverse sensitivity could be avoided or minimised through subdivision design. The inclusion of reverse sensitivity as a matter of discretion will ensure that subdivision design responds to the surrounding context and conditions can be imposed to avoid or minimise reverse sensitivity, giving effect to the outcomes sought by policy 4.7.11.
18. The Reporting Officer contradicts the opinion expressed in paragraph 608 of the s 42A report when discussing reverse sensitivity effects on the Harrisville Motocross Track. The Reporting Officer states that reverse sensitivity can be addressed through the resource consent process.

*The manner in which the matter of reverse sensitivity can be addressed is through the resource consent process, particularly in the situation where the land will be subject to the subdivision resource consent application process. I note there is a specific policy under Section 4.7 – Urban Subdivision and Development [733].*

This opinion suggests that the Reporting Officer considers reverse sensitivity would be a relevant matter to consider for subdivision applications near the Harrisville Motocross Track.

19. In my opinion reliance on policy 4.7.11 without including reverse sensitivity as a matter of discretion for subdivision is flawed. Subdivision - Generally is a Restricted Discretionary Activity under Rule 16.4.1. Section 87A(3)(a) of the RMA describes restricted discretionary activities as follows:

*the consent authority's power to decline a consent, or to grant a consent and to impose conditions on the consent, is restricted to the matters over which discretion is restricted (whether in its plan or proposed plan, a national environmental standard, or otherwise).*

20. The decision maker must take into account s 104(1) when making a decision on an application, including relevant objectives and policies, but only so far as they relate to matters over which the discretion is restricted (s 104C). In other words, the policy could not be used to expand the matters of discretion that Council can consider. Therefore, consent conditions could not be imposed to manage reverse sensitivity unless this issue was included as a matter of discretion.
  
21. The Proposed Plan has a clear policy outcome that subdivision and development minimises reverse sensitivity. It also seeks to avoid locating sensitive activities in the vicinity of an intensive farming, extractive industries or industrial activities. While the Proposed Plan includes setbacks for extractive industries and intensive farming, there are no setbacks for sensitivity activities from industrial activities. Therefore, to give effect to this policy and ensure the outcomes of the Proposed Plan are achieved, reverse sensitivity must be included as a matter of discretion.

## **CONCLUSION**

22. Hynds are at high risk of being affected by reverse sensitivity from sensitive activities locating within proximity to their site. Hynds have serious concerns about reverse sensitivity effects that would result from the proposed zoning and the zoning requests of submitters. In my opinion a combination of methods, including compatible zoning, setback rules and discretion over reverse sensitivity, should be used to avoid and manage reverse sensitivity, giving effect to policy 4.7.11.

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Chanel Hargrave

January 2020

# APPENDIX A



LEGEND	
	HEAVY INDUSTRY BUFFER (HYNDS).
	OPERATIVE INDUSTRIAL 2/PROPOSED HEAVY INDUSTRY.
	OPERATIVE AGGREGATE EXTRACTION/PROPOSED RURAL.
	PROPERTIES SUBJECT TO RESIDENTIAL ZONING REQUESTS BY SUBMITTERS. (#Submission no.)

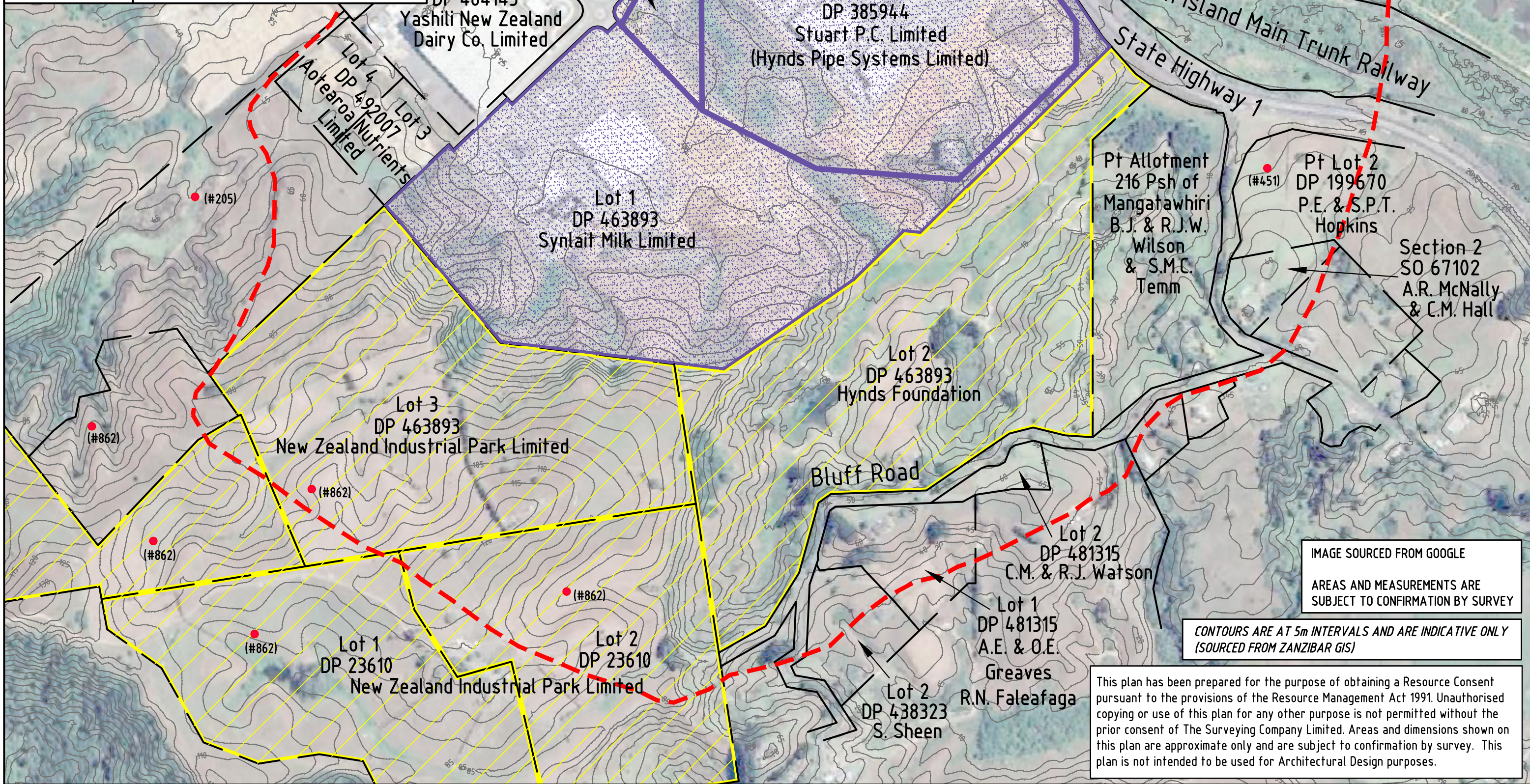


IMAGE SOURCED FROM GOOGLE  
 AREAS AND MEASUREMENTS ARE SUBJECT TO CONFIRMATION BY SURVEY

CONTOURS ARE AT 5m INTERVALS AND ARE INDICATIVE ONLY (SOURCED FROM ZANZIBAR GIS)

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**THE SURVEYING COMPANY**  
 Specialist Surveyors, Planners & Engineers

Address 17 HALL STREET, PO Box 466 PUKEKOHE E-mail info@subdivision.co.nz  
 Phone 0800 TO SURVEY (0800 86 78 78) Web www.thesurveyingcompany.nz

**HYNDS PIPE SYSTEMS LIMITED**

HEAVY INDUSTRY BUFFER PLAN -  
 #9 McDONALD ROAD, POKENO

HEAVY INDUSTRY BUFFER PLAN	
Drawn By RP	HEAVY INDUSTRY BUFFER PLAN
Scale @A3 1 : 6000	JAN 2020 J549