# 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 7 Industrial and Heavy

**Industrial Zones** 

By Hynds Foundation (Further Submitter)

Hynds Pipe Systems Limited (Submitter, Further Submitter)

Joint statement of evidence by Anna McLellan and Chanel Hargrave, The Surveying

Company Ltd

(Planning)

Dated: December 2019

## INTRODUCTION

This is a joint planning statement of evidence on behalf of Hynds Pipe Systems
 Limited and Hynds Foundation in relation to the Proposed Waikato District Plan
 Industrial and Heavy Industrial Zone provisions. This joint statement has been
 prepared by Anna McLellan and Chanel Hargrave.

#### Anna McLellan

- 2. My full name is Anna McLellan. I am a Senior Planner at The Surveying Company in Pukekohe. I have a Bachelor's of Science and a Masters in Applied Science (Natural Resource Management) from Massey University. I am an Associate Member of the NZPI.
- 3. My relevant professional experience spans over 12 years in Council and private sector roles, primarily in consenting based roles. I have also prepared a number of submissions on behalf of clients on planning documents, including plan reviews, plan changes and structure plans. For the last three years I have worked extensively on projects in the Waikato District and am familiar with the resource management issues in this area.

# **Chanel Hargrave**

- 4. 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.
- 5. 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

- 6. We confirm that we 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 we state otherwise, this evidence is within our sphere of expertise and we have not omitted to consider material facts known to us that might alter or detract from the opinions we express.
- 7. In preparing this statement of evidence we have read the s 42A reports prepared by Jane Macartney, the Reporting Officer for Waikato District Council; the summary of submissions and any relevant submissions lodged in respect of Chapters 4, 20 and 21; as well as any relevant information prepared for the District Plan review.

## THE SUBMITTERS

- 8. This evidence is prepared on behalf of Hynds Pipe Systems Limited (S983, FS1341) and the Hynds Foundation (FS1306), which are both entities of Hynds Holdings Limited. Hynds Pipe Systems Limited specialise in the manufacture and supply of construction materials and water systems in New Zealand and Australia. The Hynds Foundation is the charitable foundation established by the Directors of the Hynds Holdings Limited.
- 9. Hynds Pipe Systems Limited main site is located 9 McDonald Road, Pokeno which sits on the southern most urban edge of Pokeno. This site is located in the Heavy Industrial Zone of the Proposed Waikato District Plan (PWDP) and the Industrial 2 Zone of the Operative Waikato District Plan (OWDP).
- 10. The site adjoining 9 McDonald Road to the south is 62 Bluff Road and is held in the ownership of Hynds Foundation. 62 Bluff Road is zoned Rural in the PWDP and Aggregate Extraction in the OWDP. The submission lodged by Grander Investments (S548, former owners of 62 Bluff Road) sought re-zoning of 62 Bluff Road from Rural (notified) to Heavy Industrial. The submitter's supported Grander Investment's submission to rezone 62 Bluff Road Heavy Industrial. The locations of these properties are shown in **Appendix 1**.

11. Hynds Pipe Systems Limited and Hynds Foundation are referred to collectively as the submitters in this evidence unless the distinction is made between the two organisations.

## SCOPE OF EVIDENCE

- 12. This evidence is provided in support of the submission and further submissions on the industrial zone objectives, policies and rules made by the submitters. Specifically our evidence will address:
  - a. Overall comments about the policy direction of the two industrial zones;
  - b. Specific objectives and policies for the Industrial and Heavy Industrial Zones; and
  - c. Specific rules from Chapter 21 Heavy Industrial Zone.

#### OVERALL COMMENTS ON THE INDUSTRIAL AND HEAVY INDUSTRIAL ZONE PROVISIONS

- 13. We are of the opinion that the PWDP does not provide clear direction on the purpose and outcomes sought for the two industrial zones.
- 14. The PWDP does not provide zone purposes or descriptions and therefore a plan user must rely on the objectives and policies to understand the intent of the zones. The only objective and policy in the PWDP which provides a distinction between the two industrial zones is Policy 4.6.2. Policy 4.6.2 states that the two industrial zones have different functions. This point is not elaborated on further so it is unclear what these different functions are.
- 15. Policy 4.6.2 identifies the difference between these zones being the level of effects and compatibility with sensitive zones. However this is not reflected in the rules for these two zones which are nearly identical with the exception of the permitted height rule which is more lenient in the Heavy Industrial Zone. It is therefore unclear how the rule framework achieves Policy 4.6.2. The rules for both zones appear to anticipate the same type and form of development with the exception of height as noted.

- 16. The subdivision rules for the two zones also do not provide any indication as to the anticipated scale of activities located within these zones. A minimum lot size of 1000m<sup>2</sup> and average of 2000m<sup>2</sup> is required in both zones.
- 17. In our opinion, the Heavy Industrial Zone should provide for activities that are expected to generate potentially significant amenity effects that are incompatible with sensitive receivers, such as heavy vehicle traffic, noise, glare and air emissions. Heavy Industrial activities can have long or continuous hours of operation and are typically of a larger scale than general industrial activities. The National Planning Standards provide basic zone descriptions which identify a difference in the level of adverse effects expected within each zone as follows:

## (i) General Industrial Zone:

Areas used predominantly for a range of industrial activities. The zone may also be used for activities that are compatible with the adverse effects generated from industrial activities.

#### (ii) Heavy Industrial Zone:

Areas used predominantly for industrial activities that generate potentially significant adverse effects. The zone may also be used for associated activities that are compatible with the potentially significant adverse effects generated from industrial activities.

- 18. Hynds Pipe Systems Ltd is located in the Industrial 2 Zone of the Franklin Section of the OWDP. This zone and the activities established in it are akin to the Heavy Industrial Zone in the PWDP and include the manufacture and distribution of concrete pipes (Hynds), and regionally significant dairy processing facilities (Synlait Milk Ltd). Hynds Pipe Systems Limited encompasses a large area (approximately 22ha), generates a significant number of heavy vehicle movements to and from the State Highway network, and is consented to operate 24 hours per day, 7 days a week.
- 19. To provide certainty for future investment and continued operation it is important for Hynds Pipe Systems Ltd that the PWDP clearly articulates the difference between the two industrial zones in terms purpose and environmental outcomes. We also consider that well defined objectives and policies for the two

- levels of industrial zoning will assist with the consideration of reverse sensitivity effects in the PWDP provisions for sensitive activities and their respective zones.
- 20. There is significant demand for urban growth in Pokeno, this is reflected in the number of submissions seeking rezoning of surrounding rural land to residential. In particular the submission by Havelock Village Limited (#852), which is seeking that land directly overlooking Hynds Pipes Systems Limited be zoned residential. A roading connection from this residential development through to McDonald Road, a road which currently serves only industrial activities, is also proposed. This submission, if accepted, would impact on the efficiency and operation of activities located within the Heavy Industrial Zone including Hynds Pipes Systems Ltd.
- 21. The continued operation of Hynds Pipes Systems Limited is reliant on the PWDP provisions to enable appropriately located heavy industry and to protect this industry from reverse sensitivity effects.

## OBJECTIVES AND POLICIES FOR THE INDUSTRIAL AND HEAVY INDUSTRIAL ZONES

# Objective 4.6.1 Economic Growth of Industry

- 22. The submitters supported Synlait Milk Ltd's (**Synlait**) (S581) submission to amend the term 'industry' to the more specific 'heavy and general industrial activities'. This submission is rejected by the Reporting Officer who has recommended the objective as notified be accepted by the hearings panel. We disagree with the Reporting Officer's recommendation to retain Objective 4.6.1 Economic Growth of Industry as notified. In our opinion, the phrasing sought by Synlait, being 'heavy and general industrial activities', provides greater certainty for the types of activities enabled by this objective and reinforces the appropriate location of these activities within their respective zones. Overall the relief sought provides greater consistency between the zoning methods used within the PWDP and the National Planning Standards which describe these zones.
- 23. The Waikato Regional Policy Statement (WRPS) refers to 'industry', however this applies to 'industry' across all built environments and not specifically Industrial Zones. Industry, in this context may include service, hospitality and tourism as

well as rural industries located within the rural zones. Therefore the general use of the term 'industry' is not specific enough with the zone policy context. The amended wording presented in Synlait's submission also links clearly with the supporting policy (4.6.2) which differentiates between industrial and heavy industrial activities within these zones. The term 'industrial activity' is also defined in Chapter 5 Definitions which supports with the interpretation of this objective.

- 24. We suggest the following wording for this objective:
  - (a) The economic growth of the district's <u>general and heavy</u> industry is supported and strengthened in industrial zones.
  - (b) The positive economic and employment benefits of general and heavy industrial activities are recognised and provided for by appropriate zones for these types of activities.
- 25. An additional amendment to this objective is sought to ensure that the positive benefits of general and heavy industry are recognised.
- 26. In our opinion, amending Objective 4.6.1 as per Synlait's submission provides clarity to the plan user regarding the intent of the objective. The amendment proposed also supports the development, growth and expansion of industrial activities within the two industrial zones, which is the overall intent of the objective.

# Policy 4.6.2 Provide Industrial Zones with Different Functions

27. The submitters supported Synlait's submission to amend Policy 4.6.2 on the basis that the policy does not define the purpose of these two zones. The only difference between the two zones highlighted in this policy is the differing levels of effects on nearby sensitive receivers. The function or outcomes anticipated within these zones is not described.

- 28. We are of the opinion that for Policy 4.6.2 to achieve Objective 4.6.1, the following matters need to be incorporated into the policy:
  - a. The purpose of the general Industrial and Heavy Industrial Zones should be clearly defined to allow for the efficient operation of activities required to locate in these zones because of the nature of their operation.
  - b. These activities are protected from the encroachment of sensitive uses and other activities. The degree of protection required will be higher for the Heavy Industrial Zone.
- 29. We propose the following wording for this objective:
  - 4.6.2 Policy Provide Industrial Zones with different functions
  - (a) Recognise and provide for a variety of industrial activities within two industrial zones that have different functions depending on their purpose and effects as follows:
  - (i) Industrial Zone
  - A. Recognise and provide for a range of industrial and other compatible activities that are required to locate there because of the nature of their operation. These activities generate limited effects on sensitive zones, including visual impact from buildings and associated parking and loading spaces, outdoor storage, lighting, noise, odour and traffic, subject to appropriate separation distances.
  - B. Encroachment from sensitive activities is avoided through compatible zoning interfaces, appropriate separation distances and landscaping buffers.
  - (ii) Heavy Industrial Zone
  - A. Recognise and provide for a range of industrial and other compatible activities that are required to locate there because of the nature of their operation. These activities generate potentially significant effects on more sensitive zones, including relatively high levels of visual impact from buildings and associated parking and loading spaces, outdoor storage, lighting, noise, odour and heavy traffic.

# B. Encroachment from sensitive activities is avoided through compatible zoning interfaces and physical buffers.

30. We consider that the proposed wording clearly distinguishes between the two industrial zones and is consistent with the zone description within the National Planning Standards which states that a heavy industrial zone provides for activities that generate significant adverse effects.

# Policy 4.6.3: Maintain Sufficient Supply of Industrial Land

- 31. Hynds Foundation supported Grander Investments submission to retain Policy 4.6.3. Both submitters also supported Synlait's submission to amend Policy 4.6.3 to include recognition of the different requirements of the two industrial zones. The submission by Grander Investments has been accepted and the submission by Synlait has been rejected by the Reporting Officer.
- 32. We generally support the amendment offered by Synlait, which clearly recognises the difference in the nature and functioning of heavy industrial and general industrial activities and the need to appropriately provide for both. We are of the opinion that the amendment proposed by Synlait is clearer in its meaning than the notified policy. We also suggest this policy is further refined to include reference to the strategic industrial nodes which is consistent with the WRPS and the regional growth strategy Future Proof, instead of the non-specific 'appropriately located'. We recommend the following wording

Maintain a sufficient supply of appropriately located industrial land within the strategic industrial nodes, recognising the different locations required by heavy industrial and general industrial activities.

33. The submission by Synlait also sought the removal of 'to avoid the need for industrial activities to locate in non-industrial zones'. We support this submission. The ability for businesses to locate within these nodes relies on market availability and suitability of land and buildings in these locations. We agree with strengthening and supporting industrial activity within these nodes. However we consider it may also limit industrial activities, particularly small-scale industry, from establishing in the Waikato District if suitable land within these nodes does not meet the market demand.

- 34. There may also be valid reasons for some industrial activities to locate outside of these industrial nodes, particularly if they are reliant on certain locations in order to access natural and physical resources that are essential to their operation. There also may be instances where small scale industry may be compatible in other zones, particularly if it forms a component of the activity, such as manufacture and retail.
- 35. We are of the opinion that industrial activities should be encouraged to locate within these strategic industrial nodes. This can be achieved through enabling Plan provisions that protect industrial activities from reverse sensitivity effects and zone rules that provide for efficient built form and development.

# Policy 4.6.5 Recognition of Industrial Activities Outside Urban Areas

36. We agree with the Reporting Officer's recommendation to accept Policy 4.6.5 Recognition of Industrial Activities Outside Urban Areas as notified which provides recognition for historical uses. This meets the relief sought by the submitters.

# Policy 4.6.7 Management of Adverse Effects within Industrial Zones

- 37. The submitters supported Synlait's submission in opposition to Policy 4.6.7. Synlait sought an amendment (581.8) that effects be managed through the location of zones, including utilising the general Industrial Zone as a buffer. Synlait also sought an amendment (581.9) that only significant adverse effects from activities within Heavy Industrial Zones are required to be managed, with all other effects being considered consistent with the outcomes anticipated within the Heavy Industrial Zone.
- 38. We generally agree with Synlait's submission overall, which seeks to enable the appropriate location, efficient operation and protection against the encroachment of sensitive uses on the Heavy Industrial Zone. We are of the opinion that Synlait's submission is supported in our evidence under Policy 4.6.2 (points 19-21) above.
- 39. We are of the opinion that the PWDP does need to recognise the difference between the general Industrial and Heavy Industrial Zones and the level of amenity related effects such as noise, visual, lighting etc anticipated within each

- zone. We are of the opinion that this distinction should be made under Policy 4.6.2 as proposed in paragraph 25 above.
- 40. Policy 4.67, as notified, refers to management of adverse effects, but does not specify a threshold. In terms of amenity effects from heavy industrial activities, the significance or magnitude of the effect is often determined by the proximity of sensitive receivers, such as residential dwellings. We consider these matters should also be addressed through the location of appropriate zoning/buffers; consideration of reverse sensitivity effects on industrial activities throughout the Plan provisions; and through less stringent bulk, development and amenity (noise, lighting) rules for these Industrial Zones.
- 41. Overall we support Policy 4.6.7 as notified and in light of our proposed amendments to Policy 4.6.2.

# **New Objectives and Policies**

42. Section 17.1 of the s 42A Report considers the new objectives and policies sought in the submissions. Synlait (#581) sought the inclusion of a new objective and policy that recognises the adverse effects arising from the general Industrial and Heavy Industrial Zones may require different management approaches, with more lenient standards in the Heavy Industrial Zone being appropriate. The submitters support this submission. We are of the opinion that the objective and policy framework needs to clearly articulate the difference in the purpose of these two zones and the environmental outcomes anticipated in these zones. This would enable the efficient operation and economic growth of heavy industrial activities, and provide certainty for investment for these activities.

# **HEAVY INDUSTRIAL ZONE RULES**

# Rule 21.1.1 - Permitted Activities

43. The submitters supported the submission by Synlait to include activities ancillary to the industrial activity as a permitted activity. At the time of writing this evidence, the hearing for the Definitions Chapter (5) was yet to be held. The Reporting Officer for the Definitions Chapter has recommended broadening the definition of "Industrial Activity" and including an "Ancillary Activity" definition

that is consistent with National Planning Standards. This would meet the relief sought by the submitters. We agree with the Reporting Officer's recommendation to include "Ancillary Activity" in the list of permitted activities for the zone's rules as stated in Section 666 of the s 42A Report.

# Rule 21.2.2 – Landscape Planting

44. This rule as notified proposed buffer planting of 8m on either side of a permanent or intermittent stream. The submitters supported the submission by Synlait which sought a reduction to 4m either side of the stream. We are of the opinion that a potential 16m buffer may result in a substantial loss of usable land and compromise the efficient development of the Heavy Industrial Zone. The Reporting Officer has agreed with the reduction in width to 4m. We are of the opinion that a 4m buffer either side of the waterway will achieve the water quality improvement objectives of The Vision and Strategy for the Waikato River while continuing to allow for the efficient utilisation of the land by industrial activities. The Reporting Officer's recommendation therefore meets the relief sought by the submitters.

# Rule 21.2.3.1 – Noise, 21.2.3.3 – Construction Noise

- 45. The submitters supported the submission by Synlait to retain these rules as notified on the basis that it provides appropriate noise standards for the establishment and operation of activities within the Heavy Industrial Zone. We agree with the amendments to the Rule 21.2.3.1 recommended by the Reporting Officer in Section 45.2.4 of the s 42A Report. The recommended changes do not affect the reasons the submitters supported the rule as notified.
- 46. The Reporting Officer has recommended rejecting the further submissions to retain the Construction Noise rule (21.2.3.3) as notified. The Reporting Officer has recommended an amendment to the Construction Noise rule that provides greater flexibility. We are of the opinion that the Reporting Officer's recommendation will continue to enable development within the Heavy Industrial Zone. We are supportive of the Reporting Officer's recommendation.

#### Rule 21.2.5.1 – Earthworks

- 47. The submitters supported Synlait's submission that the rule relating to earthworks in the Heavy Industrial Zone be amended to increase the area and volume of earthworks permitted; increase the permitted depth from 1.5m to 5m; and for no restriction on the volume of imported fill where it is for a building platform in conjunction with an approved building consent. The Reporting Officer has recommended that earthworks not exceed a volume of 500m³ (P1.a.ii). This is inconsistent with the recommendations set out in the s 42A Report for the Industrial Zone rules, which allows up to 2000m³ as a permitted activity. The volumes and area recommended by the Reporting Officer also do not correspond, for example the stripping of a fairly standard depth of topsoil (200mm) across a permitted area of 10,000m² would result in a volume of 2000m³.
- 48. We consider the permitted volume of earthworks of 500m<sup>3</sup>, as recommended by the Reporting Officer, to be extremely low for a zone where large scale activities with extensive yards and hard surfaces are anticipated. It is unlikely that any industrial activities establishing within this Zone would be able to do so without triggering the requirement for earthworks consent based on volume.
- 49. Noise from earthworks is already addressed under the Construction Noise standards. Any works will also need to comply with the permitted standards under the Regional Plan<sup>1</sup>, including the implementation of sediment and erosion control measures. The Heavy Industrial Zone anticipates heavy vehicle movements and lower amenity effects compared with other zones. It is therefore unclear what such a low permitted volume of earthworks is intended to achieve. In our opinion the low permitted earthworks threshold would create additional consenting and compliance barriers for development that is anticipated within the Heavy Industrial Zone.
- 50. We agree with Synlait's submission that 10,000m<sup>3</sup> is a more realistic threshold for permitted volume of works, and will allow for anticipated activities to establish in this zone without triggering the need for unnecessary earthworks consents.

<sup>&</sup>lt;sup>1</sup> Permitted standards for accelerate erosion (land disturbance) are set out in 5.1.5 of the Waikato Regional Plan. 5.1.5(b) requires that: *Erosion/sediment controls shall be installed and maintained on all earthworks during and on completion of the works to avoid the adverse effects of sediment on water bodies*. TR2009/02 Erosion and Sediment Control Guidelines for Soil Disturbing Activities is the current best practice guideline for soil disturbance.

- 51. We agree with recommendation by the Reporting Officer for there to be no controls on the volume of fill imported for the purposes of a building platform, however we are of the opinion that this should be in conjunction with an approved Building Consent. Without an approved Building Consent there is the risk of significant fill being brought onto a site with no certainty over the timing or finished form of the development. The placement of engineered fill supporting built development should be undertaken in accordance with appropriate geotechnical specialist reporting. The Building Consent process provides an opportunity for this aspect of the development to be certified by Council. Without an approved Building Consent in place there could also be additional lag time between the fill being placed on the site and commencement of the building works which would stabilise the bare surfaces, thereby resulting in greater erosion and sediment effects.
- 52. In terms of the depth of cut/fill permitted, given the nature of activities anticipated within this Zone, we consider a 5m cut depth to be acceptable in conjunction with an approved Building Consent. Heavy industrial buildings are typically large scale requiring an extensive foundation design. We agree with retaining a cut depth of 1.5m across the remainder of the site.
- 53. Overall, increasing the permitted volume to 10,000m<sup>3</sup>, increasing the cut depth allowed to 5m where part of an approved Building Consent, and no limits on importation of fill on the basis it is in conjunction with an approved Building Consent would meet the relief sought by the submitters.

# Rule 21.2.7.1 – Signage General

54. The submitters supported Synlait's submission point (581.29) that signage relating to health and safety, way finding signage and signage required under regulation should be included as a permitted activity. This type of signage is essential to the functioning of heavy industrial activities and may be required under other legislation. We agree with the Reporting Officer's recommendation to address this by way of an amendment to Rule 14.3.1 P11, and we are of the opinion this meets the relief sought by the submitters.

## Rule 21.2.7.2 - Signage Effects on Traffic

55. The submitters supported Synlait's submission that way-finding signage be permitted. In the context of a heavy industrial activity way-finding signage may refer to signage directed internally within the site, or it may refer to the signage directed at the road to advise of the types and name and business and entrance location etc. We are of the opinion that way finding signage located internally within the site needs to be permitted to allow for the safe operation of these activities. This has been addressed in the Reporting Officers recommendations to amend Rule 14.3.1 P11, as discussed above. We agree with the Reporting Officer's recommendation regarding signage facing a legal road.

# Rule 21.3.1 Building Height, Rule 21.3.3 – Daylight Admission

- 56. The submitters supported Synlait's submission to amend these rules to increase the maximum height from 20m to 25m, and to only apply the daylight admission rule where the Heavy Industrial Zone adjoins residential zoned land. The Reporting Officer has rejected these submissions.
- 57. Heavy industrial activities typically encompass large scale buildings including factories, warehousing and distribution facilities. We are of the opinion that restrictive height restrictions and the daylight admission rule may result in the inefficient use of land within the Heavy Industrial Zone. The PWDP, as notified, allows for a minimum lot size in the Heavy Industrial Zone of 1000m² with an average of 2000m² across the site. Given the very small lot size allowable in this zone, the potential restriction from the daylight admission rule could be a significant limit on development on some lots where they interface with other zones.

#### CONCLUSION

58. In our opinion, the recommendations presented by the Reporting Officer in the s 42A Report in respect of the Industrial and Heavy Industrial Zones' objectives and policies do not appropriately define the purpose and intended outcomes for the two industrial zones. In our opinion, the proposed amendments to the objectives and policies more clearly set out the differences between the two industrial zones. This will ensure that the policy framework provides for heavy

industrial activities that may generate significant adverse effects. This will also ensure heavy industry is protected from adverse reverse sensitivity effects.

59. Heavy industrial zones provide for activities that are the most at risk of being affected by reverse sensitivity. In this regard heavy industrial businesses rely on appropriately zoned land to operate. Given the significance of the potential effects generated by heavy industry, and the relatively limited amount of heavy industrial zoned land throughout the Waikato District, it is paramount that the objectives and policies correctly reflect the realities of heavy industrial activities.

Anna McLellan

Chanel Hargrave

December 2019

