

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
Variation 3

**LEGAL SUBMISSIONS
ON BEHALF OF HAVELOCK VILLAGE LIMITED
FOR SUBSTANTIVE HEARING**

25 July 2023

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MAY IT PLEASE THE COMMISSIONERS

1. OVERVIEW

- 1.1 These submissions are filed on behalf of Havelock Village Limited¹ (HVL) in relation to Variation 3: Enabling Housing Supply) to the Proposed Waikato District Plan. HVL is intending to develop a comprehensive integrated residential development on land adjoining the existing urban area of Pōkeno to the south-west (Havelock site).
- 1.2 HVL's primary outcome for Variation 3 was the deletion of the Urban Fringe Qualifying Matter (**Urban Fringe**) and appropriate incorporation of the Medium Density Residential Standards (**MDRS**) in the PWDP. HVL presented evidence and legal submissions for the strategic hearing outlining how the Urban Fringe failed to have the necessary legal and planning merit to meet the requirements of the Resource Management (Enabling Housing Supply) Act 2021 (**Amendment Act**). The Panel agreed with HVL's position.
- 1.3 Following the removal of the Urban Fringe QM, HVL's experts have worked with the Council and other parties to consider and assess the site-specific characteristics of Havelock and identify if any relevant qualifying matters warrant reduction in the application of the MDRS in addition to any district-wide qualifying matters and related provisions.
- 1.4 Despite some initial complexity resulting from the interaction of this Variation and the PDP appeal process, HVL understands that all general and site-specific qualifying matters relating to Havelock are now agreed between HVL, the Council and relevant submitters. While Mr Campbell's planning evidence for Kainga Ora outlines an in-principle opposition to identifying reverse sensitivity as a generalised qualifying matter this opposition has not been pursued by Kainga Ora in its legal submissions or any related relief.² With respect, this in-principle planning proposition has not accounted for the specific characteristics of Havelock and the requirement to manage the interface between the industrial and proposed residential activities.
- 1.5 The recent compressed expert conferencing timelines together with contemporaneous rebuttal evidence and legal submission exchange has made hearing preparation challenging and certain earlier written statements may already require updating. This has been further exacerbated by fluctuations in Council expert witness positions on the rationale and structure for the subdivision position.

¹ Submitter 105.

² Primary Evidence of Michael Campbell, 4 July 2023, [7.3]-[7.6].

HVL's legal and expert witness team will update the Panel on any further developments at the hearing.

- 1.6 As outlined in rebuttal evidence, the appropriate mechanisms for managing potential reverse sensitivity effects in Area 1 of Havelock was the subject of expert planning and landscape debate as between HVL and Hynds Foundation. HVL and Hynds have today reached agreement on measures to manage the interaction of their respective activities, including in relation to Variation 3. HVL considers this outcome enables an appropriate level of residential development while avoiding and minimising potential effects. A Joint Witness Statement prepared by Ms Narin and Mr Tollemache is attached to these Legal Submissions at Appendix 1.
- 1.7 As it currently stands, HVL's only outstanding concerns relate to WDC's proposed district-wide provisions on vacant minimum lot size as well more technical matters relating to proposed rules for subdivision in flood plains and new earthworks rules proposed by other submitters.
- 1.8 HVL opposes WDC's proposed vacant lot size controls which will unnecessarily constrain urban intensification opportunities in Pokeno's new urban areas driving inefficiencies and constraining market opportunities without any apparent effects-based justification. It appears that despite the Panel direction to remove the Urban Fringe for lack of legal justification the Council and some of its experts continue to resist implementing the core objective of the MDRS through alternative mechanisms.
- 1.9 While the Council may have adopted an alternative toolbox of provisions, it appears the outcome and rationale are the same as the Urban Fringe QM ie to control and limit urban intensification in that area. There are however no statutory grounds for distinguishing urban residential areas on this basis unless qualifying matters apply, the relevant provisions support the implementation of the density standards, or it is consequential on their implementation.
- 1.10 HVL's position is that the Council's proposed lot size control prescribing minimum and average lot sizes)³ fails to meet any of these legal requirements and cannot be upheld. The Council has again failed to deliver on medium density housing opportunities in the Urban Fringe area through these minimum lot size provisions. The 450 sqm plus lot sizes proposed are standard residential lot sizes, not medium

³ The latest Council position, as outlined in its rebuttal evidence, is partially aligned with HVL by seeking a minimum lot size of 300m² for 1 or 2 new lots. But there is a new requirement for an average lot size of 450m² for 3 or more lots. This additional requirement was introduced through an addendum to the rebuttal evidence and lacks any clear justification in the expert evidence of the Council.

density. The Council approach is neither enabling nor supporting opportunities for a variety of housing solutions. It reflects an outdated growth management approach, which will compromise the clear outcomes that the Amendment Act deliberately sought to override via mandatory national direction. Seeking to limit growth in new urban areas for later infill development is neither enabling, efficient or economic. It is also not an option for the Council under the new legislation.

- 1.11 HVL therefore respectfully requests that the Panel adopt the majority independent expert view on the vacant subdivision size at 300sqm for the reasons outlined in the Joint Witness Statement dated 18 July 2023.

2. HVL'S RESIDENTIAL DEVELOPMENT PROPOSAL FOR POKENO AND INTEREST IN VARIATION 3

- 2.1 HVL's interest in Variation 3 and the details of its development at Havelock were outlined in evidence and legal submissions for the High-Level Issues hearing (**strategic hearing**) in February this year,⁴ and in the primary evidence for Mr Tollemache for this substantive hearing.⁵
- 2.2 The Havelock site provides for high quality designed residential neighbourhoods, contiguous with the existing Pokeno settlement which will contribute to WDC's growth targets.
- 2.3 The development will implement part of the Council's growth management strategy for Pokeno, as outlined in Waikato 2070. It is expressly identified as a growth cell within the Waikato 2070 Growth Strategy and is also identified in Future Proof 2022.
- 2.4 The majority of Havelock was rezoned from rural to urban as part of the PDP hearings and the Site is subject to an appeal seeking that the remainder of the Site also be rezoned. There are several submitters to Variation 3 who have actively participated in the preparation, conferencing and evidence exchange on provisions for the Havelock Precinct who have related PDP appeals. Most parties have worked constructively to translate the relevant PDP controls into this process reflecting appropriate site context and outcomes.

⁴ Legal Submissions for Havelock Village Limited dated 10 February 2023, at [2.1]-[2.6].

⁵ Primary Evidence of Mark Tollemache, 4 July 2023, at [5.1]-[5.6].

3. RECAP SINCE HIGH LEVEL HEARING

- 3.1 HVL's primary outcome for Variation 3 is the deletion of the Urban Fringe and the appropriate incorporation of the MDRS in the PWDP to include the Havelock residential zones.
- 3.2 HVL is grateful to the Panel for providing an early indication on the legal status of the Urban Fringe and for providing HVL and other submitters with the opportunity to work collaboratively with the Council and other submitters to implement the MDRS in parts of Pokeno, including Havelock, previously subject to the Urban Fringe.
- 3.3 HVL has actively participated in the various conferencing steps and has ultimately found this process productive and of assistance to narrowing the issues.
- 3.4 As part of this process and as explained by Mr Tollemache, HVL developed a set of provisions for Havelock applying district plan-wide qualifying matters, as well as site specific qualifying matters for the Havelock precinct. The site-specific provisions have been prepared after a thorough assessment of the site context and characteristics. They include qualifying matters based on provisions already within the PDP for the Havelock site and a limited number of new qualifying matters relating to manage the effects of MDRS development, especially relating to restrictions on building height up to 11m.
- 3.5 HVL and its experts have worked constructively with the Council on mapping and characterisation of controls and is grateful for its experts' assistance on these matters.
- 3.6 Although conferencing was initially complicated by the jurisdictional overlap with related PDP appeals, the exchange of primary and rebuttal evidence has further narrowed any remaining issues in contention with respect to the proposed Havelock qualifying matters. HVL experts have also worked constructively with the Hynds' expert team to proactively address remaining issues of concern and deliver appropriate solutions. On this basis, HVL understands all of the Havelock Precinct specific QMs are now agreed as between the experts. These are described in both Council and Mr Tollemache's evidence. For ease of reference, we have provided a summary of these proposed QMs in a tabular form in Appendix 2 to these submissions.

3.7 From HVL's perspective, outstanding issues relate to:

a) The use of minimum and average vacant lot sizes in the vacant lot size restriction area (**lot size control**);

(a) Drafting of rules relating to subdivision in the Stormwater constraints overlay – which should in fact be renamed as a flooding overlay; and

(b) the necessity and scope for all suggested amendments to the stormwater and earthworks provisions.

4. RELEVANT LEGAL FRAMEWORK AND CASE LAW PRINCIPLES

4.1 The Panel will be familiar with the applicable legal framework for Variation 3. HVL has now had the benefit of reading legal submissions filed on behalf of Kāinga Ora which succinctly outline the legal requirements and constraints relating to implementation of the MDRS via IPIs. HVL largely agrees with and adopts the statutory analysis outlined in those submissions.

4.2 As HVL outlined at the strategic hearing,⁶ the Amendment Act was enacted to remove barriers to development and allow more homes to be built in urban areas.⁷ One of its core objectives is to alleviate planning constraints on developers promoting efficient land use and minimising the resource burden on councils.⁸

4.3 The Council's core statutory obligations for implementing MDRS can be found in sections s77G-80H. The key requirements are:

(a) Every relevant residential zone of a specified territorial authority must have the MDRS incorporated under s77G, subject to the proper application of any qualifying matters;

(b) An IPIs must include the MDRS and give effect to the policies 3, 4, and 5 of the NPS-UD;

(c) An IPI may include qualifying matters or related provisions that support or are consequential on the MDRS or policies 3, 4, and 5 of the NPS-UD;⁹ and

(d) The Amendment Act tightly controls the situations where the Council can adopt a control that is less enabling than MDRS. In terms of the proposed

⁶ Legal submissions for Havelock Village Limited dated 10 February 2023.

⁷ Resource Management (Enabling Housing Supply and other Matters) Amendment Bill: Approval for Introduction at [24].

⁸ Regulatory Impact Statement: Bringing Forward the Upzoning of Land for Housing, 20 May 2021, Ministry for Housing and Urban Development, At [5].

⁹ Legal Submissions for Kāinga Ora dated 21 July 2023, at [3.6].

vacant lot size control proposed by Council the Panel will need to satisfy itself that one of the relevant categories has been met.

4.4 The Panel will be familiar with the legal principles on qualifying matters, but HVL emphasises the following relevant sections which underpin the development of its own Precinct QMs:

- (a) Any qualifying matters must relate to the matters set out in section 77I;
- (b) Any qualifying matter proposed under section 77I(j) must satisfy the requirements of Section 77L, which requires a site-specific assessment of the relevant characteristics that make it inappropriate to apply the MDRS in full; and
- (c) Any qualifying matter must be the least amendment possible to the MDRS to reflect the site specific characteristic ie a targeted amendment to the MDRS if possible.

5. LEGAL BASIS FOR THE COUNCIL'S PROPOSED VACANT LOT SIZE CONTROL

5.1 With respect, the legal basis for the Council's proposed lot size control is unclear from its opening submissions. The Council correctly identifies its obligation under Clause 7 of Schedule 3A to provide lot sizes that are consistent with MDRS but does not reconcile that with the restricted lot size controls that have been recommended. It also identifies subdivision provisions as a related matter under section 80E(2).

An Unqualified Matter?

5.2 In HVL's view the lot size control, could rightly be considered a qualifying matter since it is a rule that makes the MDRS "less enabling of development" – this is the directive language from section 77I. If the lot size control is a qualifying matter, like the Urban Fringe was, then it needs to satisfy the high threshold in section 77L. Insufficient evidence has been offered to satisfy this requirement.

Inconsistent with requirements of Clause 7, Schedule 3A

5.3 The legal requirements for subdivision requirements are set out in Schedule 3A of the RMA. Clause 7 of Schedule states that any subdivision rules must be consistent

with the level of development permitted by MDRS. Such subdivision must be provided for as a controlled activity.¹⁰

- 5.4 In HVL's view the lot size control is inconsistent with clause 7 and less enabling of development.¹¹ As outlined by Mr Tollemache the lot size control is not consistent with the level of development contemplated under schedule 3A.¹² In fact, it will constrain and restrict the application of the MDRS and the density standards, especially for 3 or more lots.
- 5.5 HVL acknowledges that Clause 7 is a qualitative standard and does not contain express spatial requirements. There is some degree of discretion or flexibility about how it is applied. The key question for the Panel is the appropriate minimum lot size needed to support implementation of the MDRS and the NPS-UD. This question is largely a planning one and is discussed in the evidence of Mr Tollemache and other expert planners. However, even at a high level, it is self-evident that the Council has failed to deliver on medium density housing opportunities through these provisions where 450sqm lot sizes are standard single house sites in most urban areas.

Related Provision

- 5.6 As it stands, the proposed vacant lot size control also cannot properly be considered a related provision under s80E(1)(b)(iii). Related provisions can only support or be consequential on the implementation of the MDRS or the NPS-UD.
- 5.7 While the term "support" could be broadly interpreted it must be a step that will help, assist or achieve the MDRS/NPS-UD outcomes ie enabling not a constraints. The evidence of Mr Tollemache is that the proposed 450sqm minimum lot sizes will hinder or impedes the implementation of the MDRS.¹³
- 5.8 Similarly, the proposed lot size control is not consequential on the MDRS or the NPS-UD. HVL considers that any consequential provision should have a merits basis. The Council has not identified any effects or merits basis related to the

¹⁰ Resource Management Act 199, Schedule 3A, cl 7-8. Clause 8 states that lot size-related requirements cannot be imposed where:

- (a) The proposed subdivision already has a residential unit on it, and the subdivision will not increase non-compliance with the MDRS or create a vacant lot; or
- (b) The proposed subdivision has no residential units on it, and the subdivision consent application is made concurrently with the land use consent where it can be shown that construction can be done as a permitted activity and the residential units will comply with the density standards

¹¹ For completeness, Clause 8 of the MDRS states the circumstances where minimum lot sizes cannot be imposed and it appears WDC has met its requirements to include rules in Variation 3 that implement Clause 8.

¹² Primary Evidence of Mark Tollemache, 4 July 2023, at [10.18].

¹³ Primary Evidence of Mark Tollemache, 4 July 2023, at [10.7].

proper implementation of the MDRS that would justify or necessitate such a restriction on vacant lot subdivision.

- 5.9 The Council's main reason for the restriction is to control the urban form to implement its model of a "well-functioning urban environment" and, in its rebuttal evidence, to provide medium to long term flexibility. This is not consequential on the MDRS. Instead, the Council is seeking to control or prescribe the roll out and implementation of the MDRS. This is contrary to the very purpose of the Amendment Act which in part is to alleviate developers of restrictive planning rules.

No statutory legal basis

- 5.10 In summary, HVL considers that the Council has no legal basis for its proposed minimum lot size since it has not been assessed as a qualifying matter (and would not meet section 77L if it did), does not meet the requirements of Clause 7, Schedule 3A and is not a lawful related provision since it does not support nor is it consequential to the MDRS or implementing the NPS-UD.
- 5.11 If the Panel disagrees and considers an IPI can include other more lenient subdivision provisions, those provisions still need to satisfy the relevant plan making tests. This includes section 32 and the requirement that the rule is the most appropriate way to achieve the relevant objectives and policies of Schedule 3A and V3. For the reasons outlined above and by Mr Tollemache, the provision is not appropriate or efficient in this regard neither does it give effect to the relevant mandatory policy framework in Schedule 3A or V3.

Waikanae – 450m² average lot size is more restrictive than the PDP

- 5.12 Since the strategic hearing, the Environment Court has provided guidance on the scope of an IPI process in the *Waikanae* decision. Counsel expect that the Panel will receive submissions from a number of parties in relation to the facts and context of the decision and will not repeat them here. The key legal principle from *Waikanae* is that an IPI cannot be less enabling than the district plan or impose additional restrictions that disenable development more than the existing district plan.¹⁴
- 5.13 The Council's updated version of the lot size control requires an average lot size of 450m² for 3 or more units. Under the PDP, the minimum subdivision lot size is 450m² minimum in the GRZ, or 200 m² minimum in the MDRZ2 zone. In Mr Tollemache's view, the Council's updated control is more restrictive than the PDP

¹⁴ *Waikanae Land Co Ltd v Heritage New Zealand Pouhere Taonga* [2023] NZEnvC 56 at [27]-[28].

because to achieve smaller lot sizes, such as 300m² lots, there must be a corresponding 600m² lot to achieve the 450 m² average.¹⁵ In this way, the rules force lot sizes of certain sizes, including larger lot sizes, restricting the flexibility for landowners. This means that although the number of lots remain the same, the rules are more restrictive and less enabling than the baseline PDP.

- 5.14 While HVL accepts that the PDP scope is not technically set because of the current appeal process, it is surprising that the Council is proposing rules that are in fact less enabling of residential development via a so-called intensification process and it does call into question the merits of the approach.

6. VACANT LOT MINIMUM RESTRICTION AREA AND LOT SIZE CONTROL – HVL'S EXPERT EVIDENCE

- 6.1 HVL's position is that a 450m² lot limit, whether an average or minimum, is overly prescriptive and will lead to inefficient and inferior outcomes for greenfields development in Pokeno in particular.
- 6.2 As outlined in Mr Tollemache's evidence and that of various other planners, including for Kainga Ora and Pokeno West, the proposed 450m² lot size has the effect of limiting the development opportunities provided by the MDRS.¹⁶ It also does not provide for a variety of densities and housing types as a large area of developing land in Pokeno will be precluded from higher density forms of housing.¹⁷
- 6.3 The Council's initial argument for including the larger minimum lot size in the urban fringe area is that the rule contributes to the development of a well-functioning urban environment.¹⁸ This is effectively the same reasoning as the urban fringe qualifying matter, which, as mentioned above, was determined by the Panel to not meet the qualifying matter threshold.
- 6.4 The original Council position of a minimum 450m² lot size is the same as that in the current GRZ, therefore does not provide for more efficient use of residential land.¹⁹ Additionally, there is a high proportion of houses in the urban fringe area that are subject to restrictive covenants that limit future densification of that site. As such, an

¹⁵ Mr Tollemache will outline his expert view in his summary statement at the hearing.

¹⁶ Joint Witness Statement in relation to Planning (Minimum Vacant Lot Size), 18 July 2023, at [3.2].

¹⁷ Resource Management Act, 1991, sch 3A, cl 6.

¹⁸ Council section 42A report, June 2023, at [109]-[113].

¹⁹ Primary Evidence of Mark Tollemache, 4 July 2023, at [10.6].

uplift in housing density is only possible through future development, but most of that land is subject to the minimum 450m² lot size restriction.²⁰

- 6.5 The rules fail to implement the objectives and policies of the MDRS or the PDP which expressly require the relevant residential zones to provide for a variety of housing types and sizes.²¹ The use of "cookie cutter" 450m² minimum lot size, as originally proposed by Council, would continue the monoculture development of Pokeno, with one standalone house on one lot and not provide variety of housing types and sizes. The 450m² average for 3 or more lots might encourage different size lots but is not as flexible or enabling as HVL's preferred 300m² minimum lot size.
- 6.6 Finally, as outlined by Mr Tollemache the lot size controls will result in an inefficient use of land. They simply fail to appreciate the reality of greenfields development and the fact that many residential landowners wish to develop and / or own a single house on a single lot.²² The rule is inefficient and ineffective and its costs outweigh its benefits.
- 6.7 HVL's proposed 300m² minimum lot size better implements the objectives and policies of the MDRS and the PDP and is more efficient and effective.

7. STORMWATER CONSTRAINTS OVERLAY AND EARTHWORKS

- 7.1 As part of the introduction of new qualifying matters within the area of Pokeno previously subject to the Urban Fringe, Council's primary evidence proposed a Stormwater Constraints Overlay. This included identification of high-risk flooding areas and purported to impose a 450m² minimum lot size on all residential land in the old Urban Fringe. The primary evidence of Mr Tollemache and Mr Pitkethley outlined why such a rule would have been inappropriate.
- 7.2 A series of expert conferences were held in which the Council experts confirmed that the 450m² minimum lot size should only apply within the flood hazard areas and not the general residential areas. This resolved HVL's main concern in relation to the stormwater overlay.
- 7.3 As a consequence of the Council's clarification, there have been some disagreements over the drafting of subdivision provisions relating to the Stormwater

²⁰ At [10.16]

²¹ Proposed Waikato District Plan, UFD-01, SD-03, SD-04, GRZ-04.

²² Primary Evidence of Mark Tollemache, 4 July 2023, at [10.10]-[10.18].

Constraints Overlay.²³ HVL agrees with the principle of the rule and the effect it manages (flood hazards) but considers the drafting of the rule could be improved for clearer and easier application. Mr Tollemache considers it would be better to address subdivision in the Stormwater Constraints Overlay as a matter for discretion in rule SUB-R153, instead of setting a minimum site size in the overlay.²⁴ Ideally this overlay would also be renamed to refer to the flooding hazard it has been introduced to control.

- 7.4 An expert conference was held on 13 July to resolve the differences in drafting approaches. While there was not complete agreement between the experts on specific, an overall approach to drafting was consolidated.²⁵ Mr Tollemache's preferred wording is described in his rebuttal evidence.²⁶
- 7.5 A final area of disagreement is in relation to the management of earthworks and the new rules sought by Ms Noakes²⁷ and contained in the evidence of Matthew Davis.²⁸ HVL does not support amendments to avoid all effects on downstream areas from earthworks and instead support the notified version of Variation 3 that requires those effects to be mitigated. Council experts agree.

8. REVERSE SENSITIVITY CONTROLS FOR AREA 1: AGREEMENT WITH HYNDS

- 8.1 HVL and Hynds have today reached agreement on a number of measures to manage the interaction of their respective activities, including in relation to Variation 3. Mr Tollemache and Ms Nairn have also prepared a Joint Witness Statement which outlines a number of agreed provisions to address potential reverse sensitivity issues with respect to Area 1 in proximity to Hynds site. HVL considers this outcome enables an appropriate level of residential development while avoiding and minimising potential effects. The JWS also addresses the experts combined expert view on the efficacy of the existing EPA control which HVL respectfully requests is removed.
- 8.2 As a result, HVL understands that of all of HVL specific QMs are now agreed as between the relevant experts. As noted earlier, a tabular summary of these proposed controls is attached at Appendix 2.

²³ Variation 3, rule SUB-R153.

²⁴ Primary Evidence of Mark Tollemache, 4 July 2023, at [9.3].

²⁵ Joint Witness Statement in relation to Variation 3 Stormwater Constraints Overlay and Planning, 13 July 2023.

²⁶ Rebuttal Evidence of Mark Tollemache, 19 July 2023, at [7.1]-[7.12].

²⁷ Primary Evidence of Anna Noakes, 4 July 2023.

²⁸ Primary Evidence of Matthew Davis, 4 July 2023, Annexure 5.

9. HVL EXPERT WITNESSES

9.1 Evidence from the following witnesses has been filed by HVL. Except for Mr Hills who the Panel has excused, HVL will call the following witnesses:

- (a) Mark Tollemache – planning – primary and rebuttal;
- (b) Bridget Gilbert – landscape – primary and rebuttal;
- (c) Ryan Pitkethley – civil engineering and stormwater – primary and rebuttal;
- (d) Leo Hills – transport; and
- (e) Jon Styles – acoustics.

DATED: 25 July 2023



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**APPENDIX 1 – JOINT WITNESS STATEMENT ON AREA 1 AND REVERSE
SENSITIVITY**

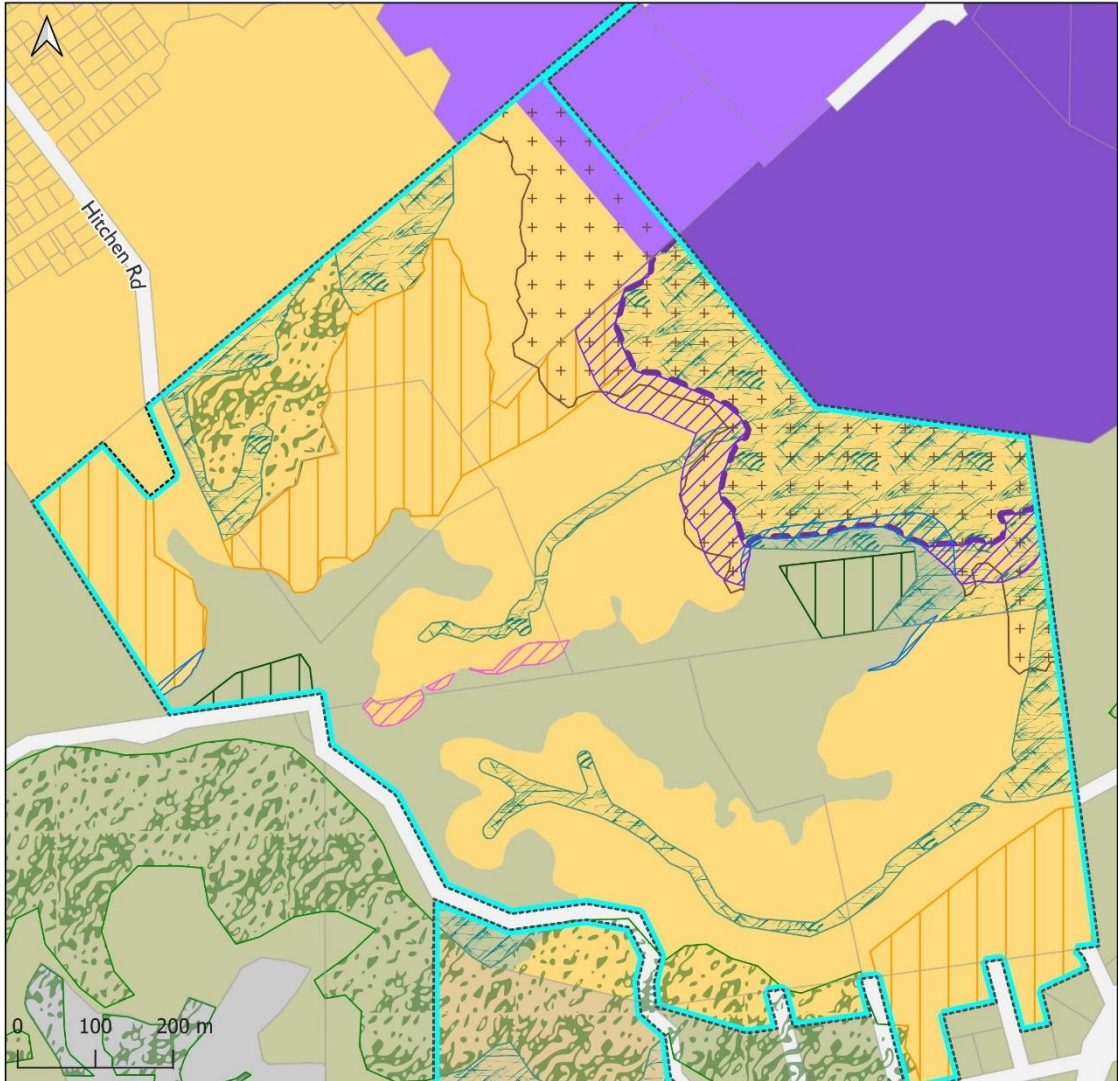
APPENDIX 2 – SUMMARY TABLE OF LEGAL BASIS FOR QUALIFYING MATTERS

(MRZ2 Provision) / MDRS Standard	Requirement	Variation	Qualifying Matter/s	Variation 3 Provision
Number of residential units per site (MRZ2-S1) MDRS Density Standard 10	Three residential units per site	The number of residential units per site will be restricted to one residential unit per site within the Slope Residential Area.	Havelock Precinct (Slope Residential Area QM) Section 771(a) Matters of national importance under section 6 – management of significant risks from Natural Hazards	Rules PREC4-SX (Residential unit within the Slope Residential Area)
		There shall be no residential units within the Pokeno Industry Buffer	Pōkeno Industry Buffer QM Section 771(j) site specific QM based on reverse sensitivity	PREC4-SX (Building setback - sensitive land use within PREC4 – Havelock precinct).

(MRZ2 Provision) / MDRS Standard	Requirement	Variation	Qualifying Matter/s	Variation 3 Provision
Building height (MRZ2-S2) MDRS Density Standard 11	11 metres	<p>Height is restricted to 5m within: 50m of the boundary of a hilltop park (Transmission Hill and Potters Hill).</p> <p>Height is restricted to 5m within 50m of the Havelock Industry Buffer Height Restriction Area.</p> <p>Height is restricted to 5m within 50m of primary ridgeline</p>	<p>Cultural Landscape Features QM</p> <p><i>Section 771(j) site specific QM based on cultural landscape features (hilltop parks and ridgelines)</i></p> <p><i>WDC and PVHL position is that this is a QM under section 77J(a) Matters of national importance – relationship of Maori and their culture and traditions with their ancestral lands, waters, sites, waahi tapu and other taonga.</i></p>	<p>Rule PREC4-SX (Height – building or structures adjoining Hilltop parks within PREC4-Havelock precinct</p> <p>Rules PREC4-SX (Height – height restriction area)</p>
		<p>Height is restricted to 8m within the 40dB L_{Aeq} noise contour area (outside the Pokeno Industry Buffer Zone)</p>	<p>40dBa Noise Contour QM</p> <p>Section 771(j) site specific QM based on reverse sensitivity</p>	<p>PREC4-SX Building design – sensitive land use with PREC4 – Havelock precinct 3(a)</p>
		<p>Height is restricted to 5m within Area 1 of the Havelock Precinct</p>	<p>Area 1 QM</p> <p>Section 771(j) site specific QM based on potential reverse sensitivity</p>	<p>Rules PREC4-SX (Height – height restriction area)</p>

(MRZ2 Provision) / MDRS Standard	Requirement	Variation	Qualifying Matter/s	Variation 3 Provision
Building coverage (MRZ2-S5) MDRS Density Standard 14	50%	Building coverage within the Slope Residential Area must not exceed 40% of the net site area.	Havelock Precinct (Slope Residential Area QM) Section 771(a) Matters of national importance under section 6 – management of significant risks from Natural Hazards	PREC4-SX (Building coverage within the Slope Residential Area)
Subdivision (SUB-R153) MDRS General standard Clause 7	MRZ2 Minimum lot size of 200m ² Subdivision consistent with level of development permitted under the MDRS	The minimum lot size within the Slope Residential Area is required to be at least 2,500 square metres.	Havelock Precinct (Slope Residential Area QM) Section 771(a) Matters of national importance under section 6 – management of significant risks from Natural Hazards	SUB-153
		The minimum lot size is 300m ² as per HVL position. WDC position is minimum lot size in the vacant lot size restriction area is 300m ² minimum for 1 – 2 lots and 450m ² average for 3 or more lots.	<i>WDC position this is not a qualifying matter</i> <i>HVL position is that this may be a QM that has not been justified under sections 77J or L</i>	SUB-R153

Havelock Precinct



Legend

- | | |
|--|--|
| Havelock Precinct | Environmental protection area |
| Havelock ridgeline height restriction area | Zones |
| Havelock hilltop park height restriction area | GRUZ – General rural zone |
| Havelock industry buffer height restriction area | RLZ – Rural lifestyle zone |
| Havelock hilltop park | MRZ2 - Medium density residential zone 2 |
| Havelock industry buffer | HIZ – Heavy industrial zone |
| Havelock slope residential area | GIZ – General industrial zone |
| Havelock 40 dB LAeq noise contour | Road |
| Significant Natural Area | TTZ - TaTa Valley zone |
| | Parcel boundary |

Note: Zone and precinct are subject to PDP appeals and may change



Variation 3 – Havelock Precinct
(s42A Rebuttal Version)

Waikato District Council
Prepared 18 Jul 2023
Cadastral Boundaries - Land Information
New Zealand
Projection: NZTM2000
Ref: ME45166