

**UNDER**

the Resource Management Act 1991 ("RMA" or "the Act")

**IN THE MATTER**

of Variation 3 to the Proposed Waikato District Plan

**STATEMENT OF EVIDENCE OF MELISSA IVY MCGRATH ON BEHALF OF PŌKENO VILLAGE HOLDINGS LIMITED (PLANNING)**

1. **INTRODUCTION**

1.1 My name is Melissa Ivy McGrath. I am a Senior Associate at Barker & Associates Limited.

**Qualifications and experience**

1.2 I have 19 years of experience in resource management planning, with a Masters in Resource Management. I have worked for local authorities throughout the Northland Region, preparing changes to various district plans. While working at Whangārei District Council as District Plan Manager, I led the rolling review of the Whangārei District Plan.

1.3 I have worked in private consultancy undertaking consenting and policy work throughout New Zealand and in Vanuatu. I have a range of planning experience in consenting, policy development, consultation and public engagement.

1.4 Examples of my experience relevant to Variation 3 are:

(a) Preparation and review of the Whangārei Growth Strategy 30/50 2010 and Whangārei Housing and Business Land Capacity Analysis 2021.

(b) Preparation and processing of private plan change applications both on behalf of applicant and council.

- (c) Reporting and management of changes to District Plans. Of particular relevance is the Urban and Services Plan Changes to the Whangārei District Plan which rezoned all of Whangārei City, implementing the National Policy Statement for Urban Development (“NPS-UD”) and National Planning Standards.
- (d) Analysis and reporting of applications on behalf of the Ministry for Environment under the COVID-19 Recovery (Fast-track Consenting) Act 2020.

### **Involvement in Variation 3**

- 1.5 I was engaged by Pokeno Village Holdings Limited (“PVHL”) in October 2022 to provide planning advice in respect of the implications of Variation 3 for the development of land in Pokeno. I have also been engaged by PVHL to provide advice on the appeals against decisions on the Proposed Waikato District Plan (“PWDP”) concerning the zoning of land in Pokeno.<sup>1</sup>
- 1.6 I have participated the Havelock Precinct Qualifying Matters expert conferencing (online) held on 17th May 2023, the Joint Witness Statement arising from which is attached as Appendix 3 to the S42A report.
- 1.7 I have also participated in the Wastewater and Water Qualifying Matters expert conferencing (online) held on 30 May 2023, the Joint Witness Statement arising from which is attached as Appendix 3 to the S42A report.

### **Purpose and scope of evidence**

- 1.8 The purpose of my evidence is to address the proposed implementation of the MDRS and proposed qualifying matters with particular reference and consideration to urban growth and development in Pōkeno.
- 1.9 Specifically, my evidence will address the following:
  - (a) Background to PVHL and the growth of Pōkeno to date (Section 3);
  - (b) Consideration of the proposed MDRS and residential capacity in Pōkeno (Section 4);

1 PVHL has played an active role in the PWDP hearings. It made a primary submission, various further submissions and joined appeals under section 274 consistently seeking to maintain Pōkeno as an urban village with a rural setting.

- (c) Consideration of Council proposed qualifying matters, with particular regard to the Havelock Precinct, comprising:
  - (i) Issues of significance to Māori (Section 5);
  - (ii) Natural hazards (Section 6); and
  - (iii) Reverse sensitivity (Section 7).
- (d) Recommendation of additional qualifying matter, particularly the Environmental Protection Area ("EPA") (Section 8);
- (e) Recommended amendments to the Havelock Precinct subdivision rules (Section 9);
- (f) Consideration of the implications of the MDRS and infrastructure capacity (Section 10);
- (g) A brief conclusion (Section 11).

1.10 A summary of my evidence is contained in Section 2.

1.11 In preparing this statement of evidence I have read the relevant portions of the s42A Report (Version 2 uploaded 19 June 2023) and Addendum s42A Report (Version 1 uploaded 23 June 2023). I have also read the relevant portions of Council evidence from:

- (a) Ms Susan Fairgray (Economics);
- (b) Mr Andrew Boldero (Stormwater);
- (c) Ms Katja Huls (Flooding and natural hazard planning);
- (d) Mr Keith Martin (3 Waters Infrastructure); and
- (e) Mr Mat Telfer (3 Waters Infrastructure).

1.12 I note that WDC has not brought specialist landscape architectural advice in respect of Variation 3 as it applies to Pōkeno.<sup>2</sup>

1.13 I have also read relevant parts of the Waikato District Council, Hearings of Submissions on the Proposed Waikato District Plan, Report and Decisions of

<sup>2</sup> Mr Mansergh's landscape evidence is limited to addressing the cultural view shaft between Tuurangawaewae and the Haakarimata Ranges and Taupiri Maunga.

Independent Commissioners, Decision Report28I: Zoning – Pōkeno, 17 January 2022.

### **Expert Witness Code of Conduct**

1.14 I have read the Code of Conduct for Expert Witnesses, contained in the Environment Court Consolidated Practice Note (2023) and I agree to comply with it. I can confirm that the issues addressed in this statement are within my area of expertise and that in preparing my evidence I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

### **2. SUMMARY OF EVIDENCE**

2.1 The Pōkeno Structure Plan (“PSP”) has guided the urban expansion of Pōkeno to date, directing urban development and protecting the cultural landscape and features and creating a strong rural backdrop. A key means by which this was achieved was by limiting the expansion of urban activities above RL100.

2.2 While the PWDP decision concluded that it was not appropriate for the growth of Pokeno to be constrained by the PSP, the Panel determined that key elements of the PSP remained important and should be reflected in the decision. In particular, the Panel retained the rural backdrop by excluding land above RL100 from having a residential zone. There are outstanding site-specific appeals against the decisions in the PWDP concerning the extent of General Residential Zone (“GRZ”) and the protection of the cultural landscape in Pōkeno which are still to be resolved via the appeal process, including in particular in relation to the Havelock precinct.

### **Process**

2.3 Although there was an expectation that a complete “package” of provisions for the Havelock precinct which addresses both the appeals and Variation 3 matters may be resolved together via discussions on Variation 3, unfortunately this has not occurred.

2.4 At the Havelock Precinct conferencing meeting Havelock Village Limited’s (“HVL”) planning and landscape architecture advisors indicated on behalf of HVL that they would provide all parties with civil engineering and landscape analysis work to support HVL’s latest position regarding its Havelock Village development. To date this information has not been provided. My conclusions

regarding the appropriateness of the proposed qualifying matters for the Havelock Precinct are therefore subject to obtaining this information.

### **Qualifying matters**

- 2.5 With the removal of the Urban Fringe qualifying matter, Council has proposed other qualifying matters and provisions for Pōkeno, including applying to the Havelock site.

#### Minimum Lot Size in Urban Fringe

- 2.6 Policy 3(d) of the NPS-UD is particularly relevant to the implementation of the MDRS and provision of urban growth in Pōkeno. Urban expansion should be provided in a way that maintains the distinctive qualities and attributes of that specific place in terms of the level of commercial activity and community services available. I agree with the s42A reporting officer's concern that the proposed 200m<sup>2</sup> minimum lot size will disperse development and not focus it on areas closer to the town centre. I support the recommendation to retain the 450m<sup>2</sup> minimum lot size.

#### Havelock Ridgeline Height Restriction Area and Havelock Hilltop Park Height Restriction Area

- 2.7 I support the protection of landscapes with high cultural values as a qualifying matter. Conceptually, I agree that limiting built form in proximity to a sensitive cultural landscape through rules such as a maximum building height, would afford a level of protection and is an appropriate qualifying matter method. I also note Ms de Lambert's support for the application of the Ridgeline Height Restriction Area and Hilltop Park Height Restriction Area in the areas of Residential zoned land and rely on her evidence in that regard.
- 2.8 However, Variation 3 has sought to apply the Havelock Ridgeline Height Restriction Area and Hilltop Park Height Restriction Area over the GRZ land along the ridgeline. There is no ability to apply a qualifying matter in parts of the district that are not subject to the MDRS. In my opinion it is inappropriate for the qualifying matter plans to show qualifying matters applying to areas of the Havelock Precinct that are zoned Rural prior to the due consideration of such matters and a decision from the Environment Court.

#### Natural hazards

- 2.9 I support the reporting officer's recommendation to retain the PWDP Slope Residential Area ("SRA") minimum lot size of at least 2,500m<sup>2</sup>, with a new

standard of a single residential unit per site as qualifying matters for the Havelock Precinct

- 2.10 The proposed MDRS will result in an increase in residential density (outside of the proposed SRA and Flood Hazard Areas) as compared with the GRZ and this has the potential to significantly increase the risk of stormwater run-off and increase natural hazard risks. In my opinion the recommendations proposed by Ms Katja Huls and the s42A reporting planner as a combined package of provisions will help to manage stormwater effects.

Havelock Industry Buffer

- 2.11 In my opinion reverse sensitivity is a qualifying matter under s77I(j). I support applying restrictions to make the MDRS less enabling of development within the Havelock Precinct including the Havelock Industry Buffer and the retention of the building design – sensitive land use within the 40 dB LAeq noise contour area standard. I consider that there may be a risk of increased internal noise levels as a result of increased density and height.

EPA

- 2.12 In my opinion the EPA is a qualifying matter under s77I(a). The EPA was intended to provide for the enhancement and protection of wetlands and streams, ecology in accordance with s6(a) and (c) matters of national importance, therefore I support the retention of the PWDP decision rule SUB-R21(1)(a)(iii) and (iv), and building setback (minimum of 3m from an EPA) require legal protection of the identified EPA and a 3m building setback.

District plan provisions

- 2.13 I note that the s42A report, Appendix 2 Amended Text does not include the full suite of subdivision rules. I recommend amendments to rule SUB-R21 Subdivision – PREC4- Havelock Precinct as detailed in (**Attachment 1**).

Infrastructure

- 2.14 The s42A report has acknowledged that there may be a significant shift to the development patterns that have characterised growth across in the urban areas in the Waikato District. The s42A report recommends retaining the existing 'infrastructure checks' process under bylaws to refuse connections to water and wastewater networks if no capacity is available. I have a number of concerns with this proposal including:

- (a) Lack of network modelling to identify areas subject to capacity constraints indicates that further assessment is required to establish that the proposed extent of the GRZ with the proposed MDRS will create an infrastructure ready and well-functioning urban environment.
- (b) Shifting development patterns could result in significant demand that has not been anticipated or enabled by the provision of infrastructure.
- (c) Both bylaws are over ten years old and will be subject to review, these bylaws can be changed without following an RMA statutory process.
- (d) Delaying capacity assessment and risk of decline to building consent stage may result in significant increase in cost to applicants as building consent requires a higher level of detailed design.

2.15 I note that Hamilton City Council – Plan Change 12 Enabling Housing Development (“PC12”) as notified has considered that “the Te Ture Whaimana qualifying matter is “the matter” required to give effect to Te Ture Whaimana. In my opinion WDC has the same requirement to align with Te Ture Whaimana and as such Variation 3 should include similar capacity mapping and provisions to those of PC12, requiring any activity to prepare a three waters capacity assessment as a restricted discretionary activity.

### 3. **BACKGROUND**

3.1 PVHL has played a major role in the growth of Pōkeno. PVHL was a proponent of the Pōkeno Structure Plan (“PSP”), which has been used to guide the growth of Pōkeno and was incorporated into the Operative Waikato District Plan via Plan Change 21 (“PC21”) and Plan Change 24 (“PC24”). PVHL is currently developing vacant land at Pōkeno in areas known as the Pōkeno Village Estate and Pōkeno Gateway Business Park.

3.2 The PSP master planned the urban expansion of Pōkeno as a complete live, work, play community, following extensive engagement with mana whenua, Ngaati Tamaoho and Ngaati Te Ata, to understand the cultural landscape and features within the landscape of significance to iwi.

3.3 I understand that PVHL took a landscape led approach to the master planning, and sought to define the extent of the urban area to create a well-defined rural village, visually connected to its rural surrounds, which aligned

the with the aspirations of mana whenua to protect the ridgelines and upper hill slopes.

3.4 As set out in Ms de Lambert's evidence,<sup>3</sup> a strong rural backdrop was a key factor in shaping Pōkeno's development: the PSP established RL100 as the limit to the expansion of any urban activities on the hills defining the immediate backdrop to the village.

3.5 Although the PWDP provided for more land on the hillsides around Pokeno to be zoned for urban development, the PWDP decision considered that the PSP direction to exclude all land at a level above RL100 from potential development remained a relevant matter<sup>4</sup> and concluded:

*"Our assessment of the evidence provided is that developing these areas will undermine the coherence of the southern natural backdrop to the town and will also have adverse cultural effects. As such, we have excluded land above RL100 from having a residential zoning and retained this land as Rural Zone"<sup>5</sup>.*

3.6 The PWDP decision excluded land above RL100 from having a residential zone<sup>6</sup>, zoned all land above RL100 Rural and added matters of discretion with respect to cultural effects to ensure that subdivision consent applications would take account of cultural concerns<sup>7</sup>.

3.7 There are outstanding site-specific appeals against the decisions in the PWDP concerning the extent of GRZ in Pokeno,<sup>8</sup> which are still to be resolved via the appeal process. Therefore, the final outer extent of GRZ within Pōkeno is uncertain at present.

3.8 Although there was an expectation that a complete "package" of provisions for the Havelock precinct which addresses both the appeals and Variation 3 matters may be resolved together via discussions on Variation 3, unfortunately this has not occurred. Although conferencing on the Havelock precinct did take place, insufficient information was available about HVL's development scheme and the rationale for it to enable a constructive discussion. HVL did indicate that it would circulate civil engineering and

3 Evidence of Rachel de Lambert, section 6, pages 11 and 12.

4 PWDP Hearing Decision paragraph 96.

5 PWDP Hearing Decision paragraph 96.

6 PWDP Hearing Decision paragraph 96.

7 PWDP Hearing Decision paragraph 104.

8 Specifically, CSL Trust, Havelock Village Limited, Hynds Pipe Systems Limited and Pokeno West and West Pokeno Limited.



landscape analysis following conferencing, but unfortunately this has not occurred, despite numerous enquiries from interested parties.

3.9 Notwithstanding the absence of information from HVL, the Council's proposed qualifying matters for Pōkeno appear to reflect the position that HVL has indicated that it will advance in its appeal to the Environment Court. As discussed below, I consider that it is inappropriate for the qualifying matter plans to show qualifying matters applying to areas of the Havelock Precinct that are zoned Rural, prior to the due consideration of such matters and a decision from the Environment Court.

3.10 Furthermore, the s42A report has made recommendations based upon submitter evidence that it had not yet received. For example, in relation to the restriction of building heights within 50m of the Havelock Industry Buffer, the report states:

*"The purpose of this provision was to manage potential impacts of additional MDRS building height relating to cultural and landscape features. as areas viewed from the Pookeno town centre. I understand that additional evidence to support this provision will be provided within submitter evidence for the Variation 3 hearing.*

*While this evidence is yet to be provided, I support the inclusion of a 50m setback from the Pookeno industry buffer and associated reduction in building height to 5m in principle. I support the provisions on the basis that it forms part of a suite of provisions that seek to manage development outcomes within the Havelock Precinct, including the protection of culturally significant landscapes<sup>9</sup>."*

3.11 It is unclear how the Council has been able to reach these conclusions regarding the appropriateness of the proposed qualifying matters in the absence of supporting evidence (noting that the Council has not obtained its own landscape evidence).

#### **4. MDRS PROVISIONS AND RESIDENTIAL CAPACITY IN PŌKENO**

4.1 I accept that the Council is required to implement the MDRS in accordance with s77G(1) and to give effect to Policy 3 of the NPS-UD in accordance with s77G(3). However, in my opinion how urban development and growth is

9 s42A report paragraphs 418 and 419.

enabled should be considered in the context of each established settlement such as Pōkeno, and the location for urban expansion should be provided in a way that maintains the distinctive qualities and attributes of that specific place. In my opinion NPS-UD Policy 3 clause (d) is particularly relevant to the implementation of the MDRS and provision of urban growth in Pōkeno:

*"...within and adjacent to neighbourhood centre zones, local centre zones, and town centre zones (or equivalent), building heights and densities of urban form commensurate with the level of commercial activity and community services."*

4.2 As notified Variation 3 included the "urban fringe" as a qualifying matter which effectively mapped and limited the spatial extent of the MDRS, going some way to retaining the character of Pōkeno as a rural village with a rural buffer. With the removal of the urban fringe qualifying matter, the s42A reporting officer has acknowledged that:

- (a) Policy 3(d) of the NPS-UD is relevant.
- (b) There is significant residential capacity well above projected demand in all modelled scenarios.
- (c) There is limited demand in the four towns for apartment living.

4.3 Further, the s42A reporting officer has raised concern that applying a 200m<sup>2</sup> vacant lot size throughout the residential zone "*will disperse development and not focus it on areas closer to the town centre*"<sup>10</sup> and has recommended retaining the 450m<sup>2</sup> minimum lot size.

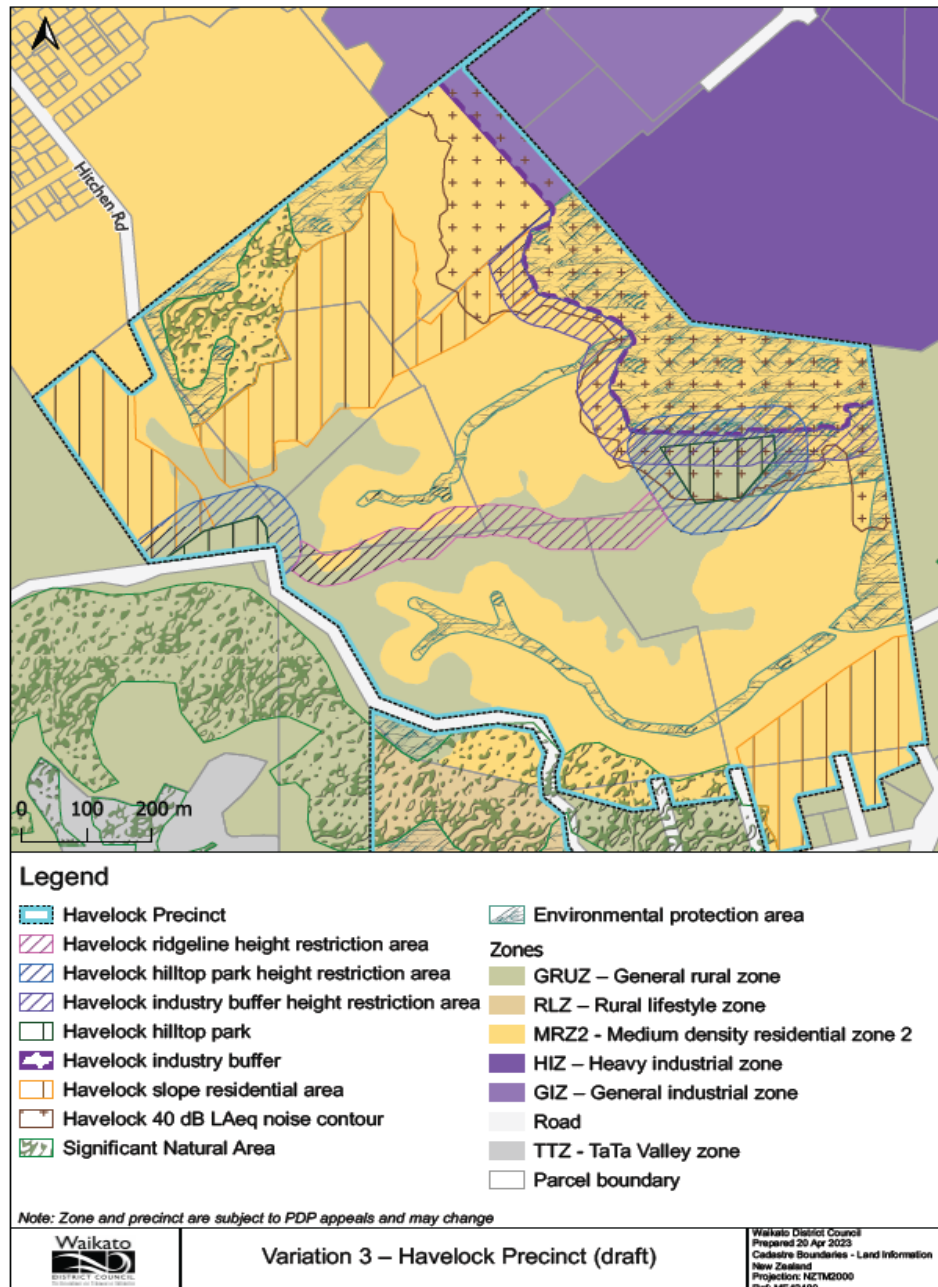
4.4 I agree with the s42A reporting officer's concern, and in my opinion the risk of dispersed development is further increased due to the uncertainty of the final extent of residential zoning being subject to the resolution of the PWDP appeals. In my opinion dispersed development also places additional pressure on infrastructure services. I consider that the recommended 450m<sup>2</sup> minimum lot size will go some way to managing urban intensification to urban form that will be commensurate with the level of commercial activity and community services within Pōkeno.

5. **ISSUES OF SIGNIFICANCE TO MĀORI QUALIFYING MATTER**

- 5.1 In my opinion Issues of Significance to Māori is a qualifying matter under s77I(a). I support the protection of landscapes with high cultural values as a qualifying matter<sup>11</sup>.
- 5.2 Variation 3 has sought to apply a "Havelock Ridgeline Height Restriction Area" illustrated by the red angled hatch in Figure 1 (excerpt from the Variation 3 Havelock Precinct Plan) below which covers a 50m width along the northern side of the ridgeline within which houses are limited to 5m in height (single storey) and a "Havelock Hilltop Park Height Restriction area", which limits heights to 5m within 50m of a hilltop park.
- 5.3 Conceptually, I agree that limiting built form in proximity to a sensitive cultural landscape through rules such as a maximum building height, would afford a level of protection and is an appropriate qualifying matter method. I rely upon Ms de Lambert's evidence as she supports the application of these qualifying matters where they overlay the MRZ2 residential zoned land.
- 5.4 However, the Variation 3 plans show the qualifying matter areas traversing the General Rural zoned land along the ridgeline. The RMA does not enable the application of a qualifying matter outside of a residential zone in which the MDRS would apply. I have not seen landscape evidence on behalf of Council nor s32 evaluation and assessment in support of the application of the overlays in the General Rural Zone (nor indeed in the MRZ2).
- 5.5 The s42A reporting planner has also recommended that a new standard is imposed to restrict building heights within 50m of the Havelock Industry Buffer, with the purpose of "managing the potential impacts of additional MDRS height relating to cultural and landscape features as areas viewed from the Pōkeno town centre"<sup>12</sup>. The reporting planner states that additional evidence to support this provision will be provided in submitter evidence.
- 5.6 In my opinion it is necessary to include appropriate standards to limit development within the Havelock Precinct to protect the cultural landscape and in that regard, I rely on Ms de Lambert's evidence as she supports the application of this buffer.

11 Additional qualifying matter proposed by Council, s42A paragraph 414.

12 s42A Report paragraph 418.



**Figure 1: Variation 3 – Havelock Precinct (draft) Plan**

**6. QUALIFYING MATTERS – NATURAL HAZARDS**

6.1 In my opinion, management of significant risks from natural hazards is a qualifying matter under s77I(a). I support the additional qualifying matters of the Slope Residential Area (“SRA”) within the Havelock Precinct and Flood Hazards within the Urban Fringe.

- 6.2 The PWDP decision limited residential density within the GRZ<sup>13</sup>. The proposed MDRS will result in an increased residential density of up to three residential units per site (outside of the SRA and Flood Hazards area). This has the potential to significantly increase the risk of stormwater run-off and increase natural hazard risks<sup>14</sup>. In my opinion the recommendations<sup>15</sup> proposed by Ms Katja Huls provide an appropriate management of the MDRS within flood risk areas<sup>16</sup>.
- 6.3 In addition to the recommendations of Ms Huls, the s42A reporting planner has also recommended a number of provisions which, as a combined package of provisions, will in my opinion help to manage stormwater effects including:
- (a) Retaining the 450m<sup>2</sup> minimum lot size requirement in the previous urban fringe area as an overlay entitled 'vacant lot minimum restriction area'<sup>17</sup>; and
  - (b) Retaining the 70 per cent impervious surfaces permitted activity limit<sup>18</sup>.
  - (c) Retaining the minimum lot size of at least 2,500m<sup>2</sup> standard within the SRA in the Havelock Precinct (PWDP decision standard PREC4-SUB-R20); and
  - (d) The introduction of a new standard to restrict the number of residential dwellings within the SRA to one per site accompanied by the limitation of building coverage to 40 per cent of net site area.

## 7. **QUALIFYING MATTERS – REVERSE SENSITIVITY**

- 7.1 In my opinion reverse sensitivity is a qualifying matter under s77I(j). I support applying restrictions to make the MDRS less enabling of development within the Havelock Precinct including the Pōkeno Industry Buffer as identified in the PWDP and the retention of the building design – sensitive land use within the 40 dB LAeq noise contour area standard.
- 7.2 To my knowledge, no acoustic assessment has been undertaken to consider the potential reverse effect of increasing sensitive activity density and

13 GRZ-S2 single residential unit per site and GRZ-S3 one minor residential unit within a site of a net site area of 600m<sup>2</sup> or more with a gross floor area that does not exceed 70m<sup>2</sup>.

14 Evidence of Andrew Boldero page 12.

15 Evidence of Katja Huls pages 60 – 61.

16 Defended Area, Flood Prone and Flood Ponding Areas.

17 s42A Report paragraph 112.

18 s42A Report paragraph 501.

building height outside of the 40 dB LAeq and in proximity to the Heavy and Light Industrial Zones. I consider that there may be a risk of increased internal noise levels as a result of increased density and height.

**8. ADDITIONAL QUALIFYING MATTER – ENVIRONMENTAL PROTECTION AREA**

8.1 The s42A reporting planner has recommended that the existing EPA and associated setback standards be retained for the Havelock Precinct<sup>19</sup>. The s42A contains no other discussion with respect to EPAs.

8.2 As I understand the PWDP decision and hearing evidence, the EPA was proposed:

(a) As an overlay to achieve landscape and ecological habitat enhancement. This overlay is intended to result in the enhancement of the riparian margins of streams and wetlands, along with the creation of ecological corridors; and

(b) To provide for the expansion of areas of SNA (buffer and enhancement plantings), the enhancement of the riparian margins of streams and wetlands, the restoration of undevelopable areas and to provide for the enhancement of 46.31 ha of the Site that is generally not suitable for medium or higher density residential development<sup>20</sup>.

8.3 The EPA was intended to provide for the enhancement and protection of wetlands and streams and ecological features in accordance with s6(a) and (c) matters of national importance. Therefore, in my opinion the EPA is a qualifying matter under s77I(a).

8.4 The PWDP decision rule SUB-R21(1)(a)(iii) and (iv), and building setback (minimum of 3m from an EPA) require legal protection of the identified EPA and a 3m building setback, effectively reducing the land available to accommodate residential development within relevant sites, which in turn will result in the MDRS being less enabling of residential density.

**9. DISTRICT PLAN PROVISIONS**

9.1 I note that the s42A report, Appendix 2 Amended Text does not include the full suite of subdivision rules. I recommend amendments to rule SUB-R21

19 s42A Report paragraph 614.  
20 Mark Tollemache Primary Planning Evidence on behalf of Havelock Village Limited 19 February 2021.

Subdivision – PREC4- Havelock Precinct as detailed in **Attachment A** to implement the recommendations of the s42A report with respect to minimum lot size.

10. **INFRASTRUCTURE CAPACITY**

10.1 The Council s42A report has acknowledged that “*the additional development capacity enabled by the MDRS is not equivalent to growth. Growth is expected to remain consistent with growth predictions that supported the Waikato District Council Growth & Economic Development Strategy (Waikato 2070), but there may be a significant shift to the development patterns that have characterised growth across in the urban areas in the Waikato District.*”<sup>21</sup> The reporting officer has recommended no changes to Variation 3 in relation to water and wastewater network capacity.

10.2 The s42A report also states that the WDC Trade Waste and Wastewater Bylaw 2016, Water Supply Bylaw 2014 and existing ‘infrastructure checks’ will be utilised to refuse connections to water and wastewater networks if no capacity is available. The reporting officer concludes that:

*“...there are expected to be relatively few new developments that require network capacity checks that are not addressed by existing rules in the PDP. These would relate to developments that require a building consent, but no resource consent. In addition, the scope of amendments that can support infrastructure capacity checks within Variation 3 is limited, and network modelling is insufficient to readily map areas subject to capacity constraints. Rather, site specific analysis supported by modelling outcomes is required”*<sup>22</sup>.

10.3 I have a number of concerns with this proposal including:

- (a) Lack of network modelling to identify areas subject to capacity constrains indicates that further assessment is required to establish that the proposed extent of the PWDP GRZ (and proposed MDRS) will create an infrastructure ready and well-functioning urban environment.

21 s42A report paragraph 669.

22 s42A report paragraph 673.

- (b) Shifting development patterns could result in significant demand that has not been anticipated or enabled by the provision of infrastructure.
- (c) Both bylaws are over ten years old and will be subject to review. These bylaws can be changed without following an RMA statutory process.
- (d) Delaying capacity assessment and risk of decline to building consent stage may result in significant increase in cost to applicants as building consent requires a higher level of detailed design.

10.4 I note that Hamilton City Council – Plan Change 12 Enabling Housing Development (“PC12”) as notified has considered that “the Te Ture Whaimana qualifying matter is “the matter” required to give effect to Te Ture Whaimana. In the case of Hamilton City, that “matter” is the balance in the relationship between enabled residential densities, and the provision of public infrastructure necessary to address adverse effects arising from development taking up those densities”<sup>23</sup>. PC12 concluded that the Council’s role lay within “Council’s comprehensive stormwater and wastewater discharge consents the Council is accountable to the Waikato Regional Council, and those consents must be operated within requisite discharge parameters that align with Te Ture Whaimana”<sup>24</sup>.

10.5 In my opinion WDC has the same requirement to align with Te Ture Whaimana and as such Variation 3 should include similar capacity mapping and provisions to those of PC12, requiring any activity to prepare a three waters capacity assessment as a restricted discretionary activity.

## 11. **CONCLUSIONS**

11.1 I support the inclusion of the following qualifying matters proposed by Council, subject to further refinement and supporting evidence regarding their spatial extent:

- (a) Issues of significance to Māori, including protection of landscapes with high cultural values;

23 Hamilton City Council – Plan Change 12 – Section 32 Appendix 2.5 Infrastructure Capacity Provisions – page 10.

24 Hamilton City Council – Plan Change 12 – Section 32 Appendix 2.5 Infrastructure Capacity Provisions – page 11.



- (b) Management of significant risks from natural hazards, including slope residential areas within the Havelock Precinct and Flood Hazards; and
- (c) Reverse sensitivity, including restrictions to make the MDRS less enabling of development within the Havelock Precinct.

11.2 I recommend that the EPA be included as a qualifying matter, including that the existing Environmental Protection Areas (EPA) and associated setback standards be retained for the Havelock Precinct.

11.3 I recommend that Variation 3 aligns with the HCC consideration of Te Ture Whaimana. As such Variation 3 should include similar capacity mapping and provisions to those of PC12, requiring any activity to prepare a three waters capacity assessment as a restricted discretionary activity.

**Melissa Ivy McGrath**

**4 July 2023**

**ATTACHMENT A**  
**RECOMMENDED AMENDMENTS TO SUB-R21**

Amendments – Additions red underline, deletion ~~red strike through~~

| <b>SUB-R21</b>                 | Subdivision – PREC4- Havelock precinct  |  |
|--------------------------------|---|--|
| PREC4-<br>Havelock<br>precinct | <p><b>(1) Activity status:</b><br/><b>RDIS Activity specific standards:</b></p> <p><u>(a) Except where the site is within the Stormwater Constraints Overlay or within the Flood Hazard Overlay; and</u><br/><u>(b) Except where the site is within the Havelock precinct (Slope Residential Area); and</u><br/><u>(c) Except where SUB-R154 (Subdivision Residential) applies, subdivision must comply with all of the following standards:</u></p> <p><u>(i) In the minimum vacant lot size restriction area proposed vacant lots must have a minimum net site area (excluding access legs) of 450m<sup>2</sup>, except where the proposed lot is an access lot, utility allotment, or reserve to vest; and</u><br/><u>(iii) Proposed vacant lots must be able to connect to public-reticulated water supply and wastewater.</u></p> <p><u>(c) Where the site is within the Stormwater Constraints Overlay, the minimum site size is 450m<sup>2</sup>.</u></p> <p><del>(a)</del> <u>(d)</u> Subdivision within the PREC4 – Havelock precinct that complies with all of the following standards:</p> <p>(i) The first subdivision to create residential lots includes the indicative road connections from Hitchen Road and Yashili Drive as a road to vest.</p> | <p><b>(2) Activity status: DIS</b><br/><b>Where:</b></p> <p>(a) Subdivision that does not comply with Rule SUBR21(1)(a) <del>– (c)</del> and <u>(d)</u> (i) – (iv)</p> <p><b>(3) Activity status: NC</b><br/><b>Where:</b></p> <p>(a) Subdivision that does not comply with Rule SUBR21(1)<del>(a)</del> <u>(d)</u> (v).</p> |

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|  | <p>(ii) The proposal includes the indicative roads as roads to vest, provided that this can be constructed and vested in stages.</p> <p>(iii) The proposal includes the provision of the Hilltop Park and the creation of the Pōkeno Industry Buffer areas and Environmental Protection Areas (all as shown on the planning maps).</p> <p>(iv) The proposal includes legal mechanisms to retain Environmental Protection Areas in perpetuity and which prevent further subdivision of them (such as via covenants, consent notice or vesting).</p> <p>(v) Either prior to or concurrent with subdivision in Lot 2 DP199997, an acoustic barrier (being a bund, building or structure, or any combination thereof) is constructed within the Havelock Precinct's GIZ - General industrial zone which is designed so as to:</p> <ol style="list-style-type: none"> <li>(1) Achieve noise levels no greater than 45 dB LAeq between 10pm and 7am in the PREC4 - Havelock precinct and GRZ - General residential zone; and</li> <li>(2) Be at a height of no less than that illustrated on Figure 20 below and a length along the entire common boundary between Lot 2 DP199997 and Lots 3 and 4 DP 492007 (excluding the Collector Road on the Havelock Precinct Plan</li> </ol> |  |
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and 5m front yard setback –  
Rule GIZ-S6(1)(a)(1)).

**Council’s discretion is restricted to the following matters:**

- (b) Consistency with the Havelock Precinct Plan (APP14 – Havelock precinct plan);
- (c) Design and construction of the indicative roads and pedestrian networks;
- (d) Design, location and timing of construction of the acoustic barrier within the Havelock Precinct’s GIZ – General industrial zone;
- (e) The design of, and potential effects on, the safe and efficient operation of the intersection of the Havelock Precinct’s Collector Road and Yashili Drive, including the design to accommodate safe vehicle access and egress for activities in the adjacent GIZ – General industrial zone;
- (f) Design of the Hilltop Parks and adjoining park edge roads;
- (g) Avoidance, minimisation or mitigation of visual and physical disturbance to the upper flanks of Transmission and Potters Hills (where the hilltop parks are located) resulting from road design and alignment;
- (h) Potential effects on the safe and efficient operation of Bluff and Pioneer Roads (including where these intersect with State Highway 1) from roading connections to Cole Road;
- (i) The design of, and potential effects on, the safe and efficient operation of the intersections of:

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|  | <p>(i) Yashili Drive and Gateway Park Drive;</p> <p>(ii) Gateway Park Drive and Hitchen Road; and (iii) Gateway Park Drive and McDonald Road.</p> <p>(j) Potential effects on the safe and efficient operation of the McDonald Road railway crossing;</p> <p>(k) Accessible, safe and secure pedestrian and cycling connections within the Precinct and to the existing transport network and public facilities;</p> <p>(l) Provision within the Precinct design for future public transport;</p> <p>(m) Provision of planting, management plans for weed and pest control and their implementation, ownership and ongoing management of the Environmental Protection Area;</p> <p>(n) Design of earthworks (contours and aspect), lot size and orientation, fencing and landscape treatment between the 40 dba noise contour and the Pōkeno Industry Buffer on the planning maps to minimise possible reverse sensitivity effects on nearby HIZ - Heavy industrial zone activities, including through limiting potential for direct visual interaction from building platforms and associated future dwellings and outdoor living areas to industrial activities; and</p> <p>(o) Cultural effects.</p> <p><u>(p) Flooding effects including safe access and egress</u></p> <p><u>(q) Stormwater Management and the use of Low Impact Design</u></p> |  |
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|  | <a href="#"><u>methods (R) The objectives and policies in Chapter 2-20 Te Ture Whaimana – Vision and Strategy</u></a> |  |
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