

**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

---

**MEMORANDUM OF COUNSEL  
ON BEHALF OF HAVELOCK VILLAGE LIMITED:  
UPDATE ON PDP APPEAL MATTERS FOR HEARING #3 AND REQUEST  
FOR DIRECTIONS**

**30 NOVEMBER 2023**

---

**BUDDLE FINDLAY**

Barristers and Solicitors  
Auckland

Solicitor Acting: **Vanessa Evitt / Mathew Gribben**  
Email: [vanessa.evitt@buddlefindlay.com](mailto:vanessa.evitt@buddlefindlay.com) / [mathew.gribben@buddlefindlay.com](mailto:mathew.gribben@buddlefindlay.com)  
Tel 64-9-358 2555 PO Box 1433 DX CP24024 Auckland 1140

## **MAY IT PLEASE THE COMMISSIONERS**

1. This memorandum is filed on behalf of Havelock Village Limited (**HVL**).
2. The purpose of the memorandum is to provide the Panel with a further update on the agreement that has been reached in relation to the Proposed District Plan Environment Court appeals for the Havelock site.<sup>1</sup> The parties to the appeals have now reached agreement on the zoning and precinct provisions for the entire Havelock site.
3. The proposed resolution of the PDP appeals for the Havelock site will rezone part of the rural zoned land above RL100 to residential so it will also become a 'relevant residential' zone and subject to Variation 3 for the purposes of MDRS. This means that the entire Havelock precinct area can be considered holistically by the Panel, which was not the case when HVL appeared before the Panel in July.
4. The parties' agreement and the potential implications are discussed in further detail in the Opening Legal Submissions on behalf of the Waikato District Council for Hearing #3, dated 21 November 2023, paragraphs 52 and 53. HVL supports the submissions of the Council and in particular the need for a co-ordinated approach to the relevant residential zoning and qualifying matters for the Havelock site.
5. The proposed settlement of the Environment Court appeals has been documented and final draft consent documentation is with the parties for signing. The draft consent documentation was agreed and documented on the basis that the general residential zoning approved by the Environment Court would qualify for potential uplift via MDRS/Variation 3 and the precinct controls were developed consistently across the site and to appropriately manage any uplift in density. As the Panel is aware, many of the parties to the appeals are also involved in Variation 3 which enabled this approach and level of oversight.
6. HVL has filed consent documentation with the Environment Court today with a request for priority orders. It also made an advance request for the Court to consider the draft consent documentation as a priority in

---

<sup>1</sup> *Havelock Village Limited v Waikato District Council* (ENV-2022-AKL-000072) and *Hynds Pipe Systems Limited and Hynds Foundation v Waikato District Council* (ENV-2022-AKL-000087).

light of the timetable for Hearing #3. However, the compressed timeframes between filing documents and commencement of Hearing #3 means it is unlikely that a consent order will be issued in time for the commencement of Hearing #3 on 5 December 2023.

7. Despite this, and as signalled in the Council's legal submissions, HVL and Council consider the most appropriate evidentiary approach is for HVL and WDC to file a joint statement of planning evidence from Mark Tollemache for HVL and Karin Lepoutre for Council on the proposed approach to land above RL100 within the Havelock Precinct. This will explain how the provisions for the land above RL100 agreed by the parties through the appeals process meet the relevant tests under the Enabling Housing Supply Act, especially in relation to Qualifying Matters. The assessment in the statement will be conditional on the Environment Court issuing a consent order on the terms sought by the appeal parties (ie will be premised on the change of the land above RL100 from rural to residential). If that does not occur, the statement will not be relevant to the Panel's considerations.
8. WDC and HVL intend to file that joint statement prior to the opening of Hearing #3 to allow the Panel to consider the evidence during the hearing. Counsel for HVL and Mr Tollemache can be available to appear at Hearing #3 remotely if needed to answer any questions from the Panel about the joint statement or this proposed approach. We would welcome any specific directions in that regard so that the necessary arrangements can be made.
9. HVL will also keep the Panel updated about the progress with the consent documentation but respectfully request that the Panel retain Hearing #3 open at the close of proceedings on 5 or 6 December, so that parties may provide the Panel with the Environment Court consent orders, if and when, they are issued and/or address any amendments or consequential amendments required for Variation 3, if so directed by the Court. If the Panel were prepared to do this, an early indication would be appreciated so that HVL could advise the Court Registrar for timing purposes.
10. Counsel for HVL is also in regular discussion with Counsel for Hynds Pipes Limited and Hynds Foundation and Waikato District Council, who

are the other PDP appeal parties for the Havelock Precinct and can advise that this approach is acceptable to them.

11. To summarise, HVL respectfully requests directions or an indication:
- (a) As to whether the Panel will consider an agreed joint witness statement that is conditional on land use change from rural to residential where consent orders have been filed but not yet issued by the Court;
  - (b) If yes, whether the Panel wishes to hear from Counsel and/or the relevant planning witness in relation to the content of that statement and progress with the Court orders;
  - (c) Confirmation that Hearing #3 will not be closed by the Panel following completion of the hearing days next 5/6 December to allow time for the Court orders (if issued) to be filed with the Panel for its consideration.

**DATED:** 30 November 2023



---

**V S Evitt / M G Gribben**  
Counsel for Havelock Village Limited

- cc Sarah Mitchell and Warren Bangma for Hynds Pipes and Hynds Foundation
- Bridget Parham and Kahlia Gross for Waikato District Council