

BEFORE AN INDEPENDENT HEARINGS PANEL

THE PROPOSED WAIKATO DISTRICT PLAN

IN THE MATTER OF the Resource Management Act 1991 (**RMA**)

IN THE MATTER OF hearing submissions and further submissions on
Variation 3 Enabling Housing Intensification to the
Proposed Waikato District Plan (Stage 2)

**STATEMENT OF REBUTTAL EVIDENCE OF BRIDGET MARY GILBERT
ON BEHALF OF HAVELOCK VILLAGE LIMITED (#105)**

LANDSCAPE

19 July 2023

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1. INTRODUCTION

- 1.1 My full name is Bridget Mary Gilbert. My qualifications and experience are set out in my statement of evidence in chief dated 4 July 2023.
- 1.2 Although this is a Council hearing, I confirm I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2023 and that I agree to comply with it. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person.

2. SCOPE

- 2.1 My rebuttal evidence is provided in response to the evidence filed on behalf of Hynds Pipe Systems Limited, the Hynds Foundation and Pokeno Village Holdings Limited, that seeks, amongst other things, the expansion of the Havelock Industry Buffer (referred to as the 'Pōkeno Industry Buffer' in the s42A Report and my evidence in chief) to include Area 1¹ within the Havelock Precinct². I have read and respond to the expert evidence of Ms de Lambert and Ms Nairn.
- 2.2 I note that Ms de Lambert and Ms Nairn support the following qualifying matters for the Havelock Precinct:
 - a) the Havelock Ridgeline Height Restriction Area;³
 - b) the Havelock Industry Buffer (subject to an expansion of this buffer across Area 1);⁴
 - c) the Havelock Industry Buffer Height Restriction Area (maximum building height of 5m within 50m of the Havelock Industry Buffer);⁵

¹ The location of Area 1 is depicted in Figure 1 overleaf and corresponds to the elevated land east of Transmission Hill hilltop park.

² Rachel de Lambert EiC: [4.1](a); S Nairn EiC: [4.2].

³ Rachel de Lambert EiC: [4.3]; S Nairn EiC: [4.8].

⁴ Ibid.

⁵ Ibid.

d) the Havelock Hilltop Park Height Restriction Area (maximum building height of 5m within 50m of Hilltop Parks).⁶

2.3 This means that the issue in contention between Ms de Lambert and myself is limited to the appropriateness of the expansion of the Pōkeno Industry Buffer across Area 1 from a landscape effects perspective.

2.4 In terms of **landscape assessment methodology**, I confirm that the methodology that underpins this evidence is consistent with *Te Tangi a te Manu* (Aotearoa New Zealand, Landscape Assessment Guidelines, Tuia Pita Ora New Zealand Institute of Landscape Architects, July 2022).

3. EXECUTIVE SUMMARY

3.1 Relying on the reasoning set out in my Rebuttal evidence, I do not consider 'visual reverse sensitivity' to be an issue.

3.2 Also relying on the landscape evaluation in my Rebuttal evidence (which includes field work, accurately located photographs from Area 1 to the industrial zoned land, and review of a draft Cross Section⁷ that shows the visual relationship between Area 1 and the Hynds site) I consider that:

a) The DV EPA provisions, combined with the inevitable landform modification that will be required to develop the Decisions Version Residential zoned part of Area 1 will deliver adequate visual screening of the existing industrial area for dwellings/residents in Area 1.

b) Any potential incompatibility due to landscape or visual effects can be appropriately managed on this basis.

3.3 My landscape analysis confirms that it is unnecessary to expand the Pōkeno Industry Buffer to capture all of Area 1 in the manner recommended by Ms de Lambert and Ms Nairn, as there are plausible landscape mitigation strategies that can achieve an effective and

⁶ Ibid.

⁷ A Final version of the Area 1 Cross Section will be attached to the legal submissions filed on behalf of Havelock Village Limited on Friday 21 July 2023.

enduring visual screen in this location. These mitigation measures would mean that residential development could still occur in Area 1 and views towards the Hynds land would be filtered or blocked entirely.

- 3.4 However, if the Panel disagrees with respect to Area 1, I consider that limiting the height of buildings within all of Area 1 to 5m (one storey) would further limit the potential outlook over the industrial area.
- 3.5 In my opinion this would be more consistent with the outcomes of the RMA Enabling Legislation by ensuring that adequate urban uplift is provided and only limiting core land use standards to address site specific issues rather than any development at all.
- 3.6 For completeness, I do not consider this is strictly necessary to manage visual reverse sensitivity effects as outlined by Ms de Lambert or Ms Nairn but have outlined it as an option to assist the Panel.
- 3.7 I remain of the view that no other qualifying matters are required in relation to the Havelock Site from a landscape perspective.

4. EXPANSION OF THE PŌKENO INDUSTRY BUFFER ACROSS AREA 1

- 4.1 I understand that the merits or otherwise of the appropriateness of zoning Area 1 for residential use are subject to appeal to the Environment Court in relation to the Proposed District Plan. Area 1 is zoned as General Residential in the Decisions Version of the Proposed District Plan, and in the notified version of Variation 3, but is subject to the Environmental Protection Area.
- 4.2 Nevertheless, Ms de Lambert and Ms Nairn recommend the expansion of the Pōkeno Industry Buffer across Area 1. The location and extent of Area 1 is depicted in **Figure 1** below. I understand from Ms de Lambert's evidence that the basis for her recommendation in this regard is the potential visibility of the Hynds operation (and their proposed expansion area) from residential development in Area 1.⁸

⁸ Rachel de Lambert EiC [7.11].



Figure 1: Location and extent of 'Area 1' over which Ms de Lambert considers that the Havelock Industry Buffer should apply to manage visual reverse sensitivity effects. (NB EPA corresponds to the green coloured area to the north of Area 1 and the Transmission Hill Hilltop Park is to the west of Area 1. NB North: straight up the page.)

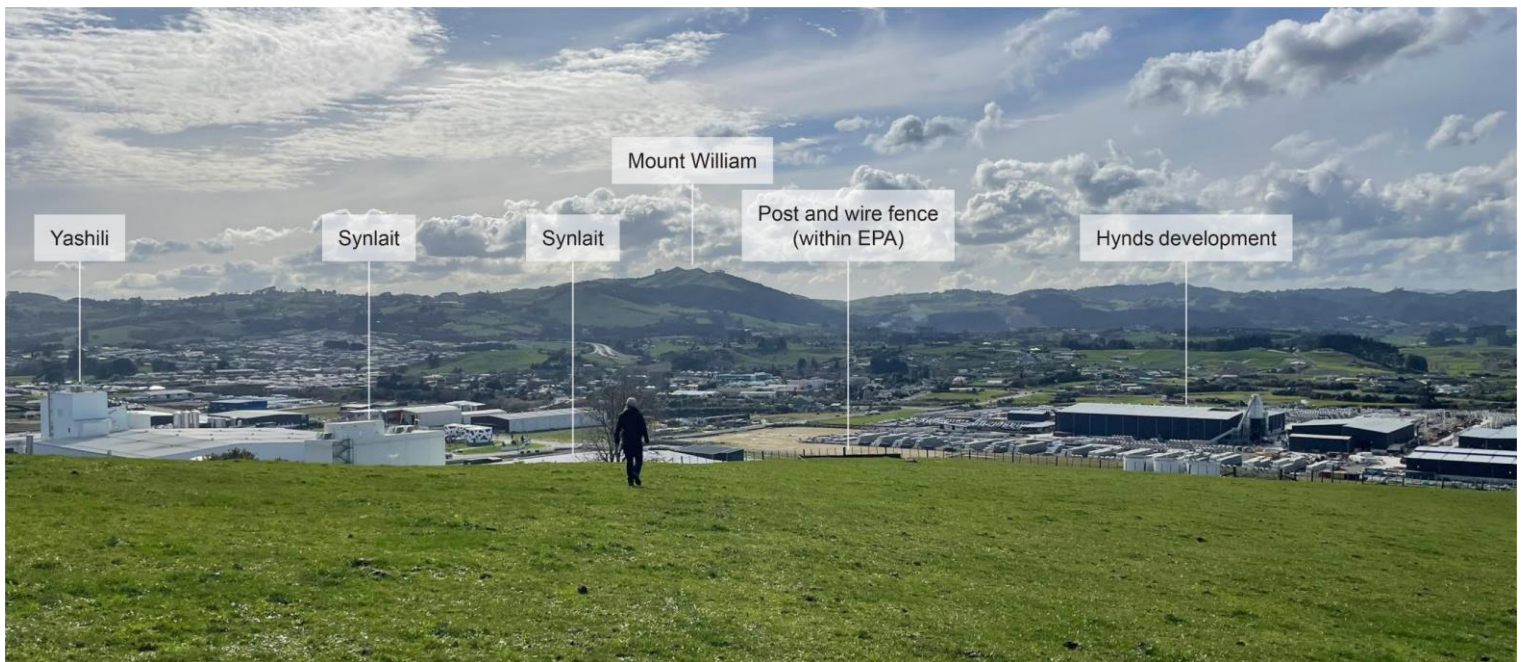
4.3 I understand that a commonly used definition of reverse sensitivity from case law which has been adopted by Ms Nairn in her evidence is:

Reverse sensitivity is the legal vulnerability of an established activity to complaint from a new land use. It arises **when an established use is causing adverse environmental impact to nearby land**, and a new, benign activity is proposed for that land. The "sensitivity" is this: if the new use is permitted, **the established use may be required to restrict its operations** or mitigate its effects so as to not adversely affect the new activity. (Emphasis added)

4.4 As a landscape architect, I have been involved in numerous projects over the years where the issue of reverse sensitivity effects has emerged as a factor requiring location specific controls that integrate landscape related mitigation strategies.

- 4.5 Such instances include the management of acoustic effects and dust effects in relation to quarrying or heavy industry activities, in which landscape expertise is sought to locate and design acoustic barriers that sit comfortably into the setting or planted buffers to limit dust nuisance for neighbours.
- 4.6 I have also been involved in numerous resource consent applications or plan changes where landscape related mitigation strategies are incorporated to address adverse visual effects between proposed and existing landuses.
- 4.7 However, I have never heard of the term “visual reverse sensitivity” nor encountered a situation where “visual reverse sensitivity effects” have resulted in the identification of appreciable parts of a site being deemed to be unsuitable for the proposed landuse in the manner argued by Ms de Lambert and Ms Nairn.
- 4.8 In my opinion, there are two factors that play an important role in this regard:
- a) The common-sense observation that where a new landuse such as residential development is to be located adjacent an ‘unattractive’ landuse (such as heavy industry or a quarry), a developer typically seeks to screen such views to enhance the visual amenity (and value) of their site.
 - b) The ability to use earthworks (e.g. naturalised mounding, modified ground levels), planting and/or development staging, to successfully screen views from a new landuse to the existing landuse.
- 4.9 Turning to the Havelock land, I acknowledge that Area 1 currently has close to mid-range views over the industrial zoned land. Of interest to note is that the large-scale industrial development of the Yashili and Synlait developments is closer to a viewer in Area 1, yet those parties have not expressed concern with respect to potential visual incompatibility.
- 4.10 I also note that this outlook forms part of a much more expansive panorama that takes in the broader settlement, Mt. William and the

contiguous ridgeline system that extends eastwards from Mt. William to the Mangatawhiri Forest at the southern end of the Hunua Ranges as depicted in **Photographs 1 and 2** below, taken from Area 1. (NB **Figure 2** shows the approximate location of the photographs and **Annexure (i) Sheets 1 to 3** attached, includes an A3 scale version of Photographs 1 and 2, and Figure 2.)



Photograph 1: Typical character of the outlook from the northern edge of Area 1 towards the industrial zoned land. The post and wire fence in the image is well within the DV PWDP EPA and is located where the EPA transitions from steep land to a more moderately sloping contour.



Photograph 2: Typical character of the outlook from Area 1 towards the industrial zoned land. The post and wire fence in the image is well within the DV PWDP EPA and is located where the EPA transitions from steep land to a more moderately sloping contour.

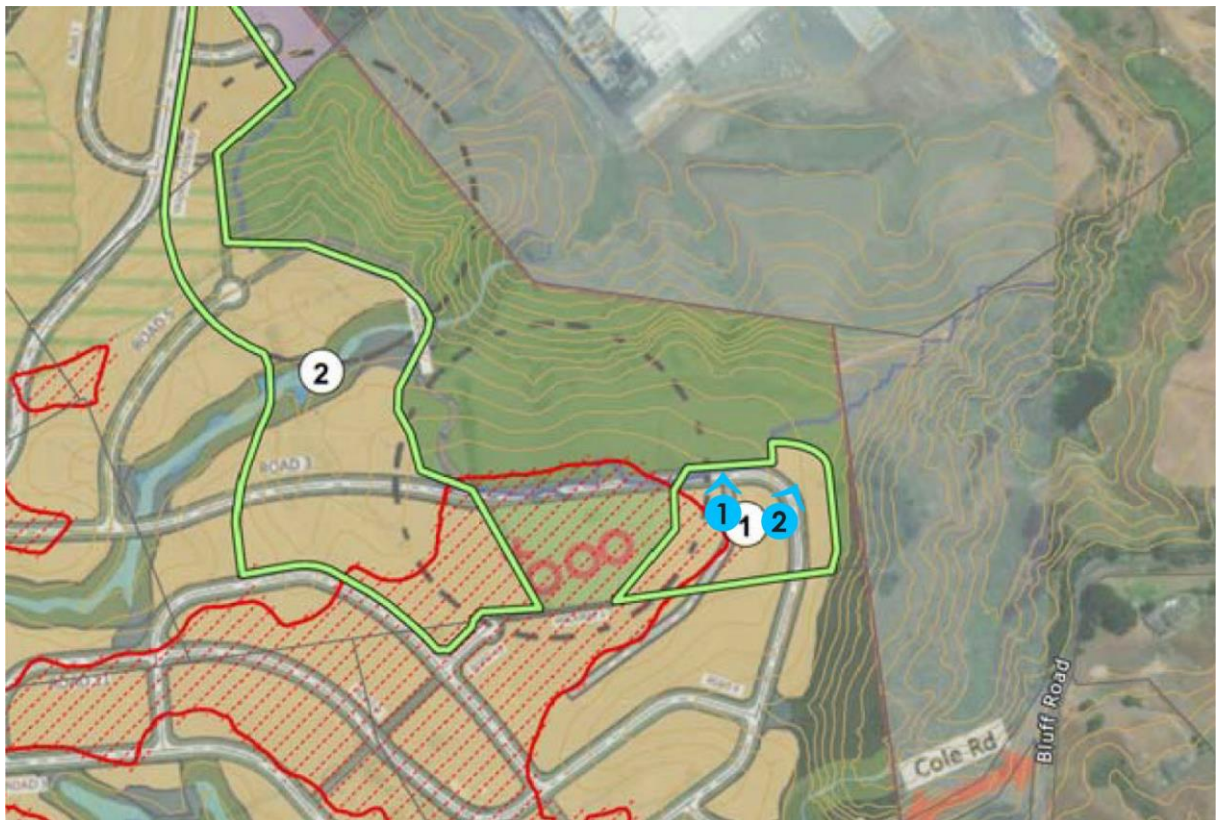


Figure 2: Approximate photograph locations

- 4.11 In my opinion, this material confirms my impression on site when I walked Area 1, that this part of the Havelock land affords an expansive and visually complex panorama that takes in the broader settlement of Pōkeno, the surrounding rural hinterland and the continuous ridgeline system stretching from Mt William to the southern end of the Hunua Ranges. The eye is naturally drawn to the horizon line and, in particular, the distinctive landform of Mt William.
- 4.12 This material also confirms my impression on site (in Area 1), that earthworks and/or mitigation planting along the northern edge of Area 1 could be reasonably expected to provide an effective visual screen between any new residential development and the existing industrial landuses, without compromising sunlight access or the quality of the broader ridgeline outlook (including Mt. William). It would also locate visual mitigation strategies in a part of the Havelock land where extensive native restoration planting is already anticipated via the DV PWDP EPA provisions. This means that any such earthworks and/or planting will read as a logical part of the cohesive landscape framework for urban development on the Havelock land. Collectively, these observations demonstrate that the use of earthworks and/or planting to provide visual mitigation/screening in this location, will not, in itself, generate adverse landscape related effects.
- 4.13 I have tested with Havelock Village Limited's engineers Civilplan Consultants, the scale of earthworks and/or planting that might be required to achieve a visual screen between Area 1 and the industrial zoned land, if Area1 were developed for urban residential use (referred to as the **Area 1 Cross Section**).
- 4.14 Unfortunately, time constraints have not allowed for the Final 'Area 1 Cross Section' to be completed in time for it can be attached to my rebuttal statement. I understand that the Final Area 1 Cross Section will be attached to Havelock Village Holdings legal submissions, due to be filed on Friday 21 July 2023⁹. However, I have had the opportunity to review the Draft Area 1 Cross Section. The cross section shows the

⁹ NB amendments required to the Area 1 Cross Sections are limited to annotations only.

visual relationship between residential development throughout Area 1 and the Hynds site, and factors in:

- a) the Decisions Version Environmental Protection Area plantings; and
- b) a realistic interpretation of the proposed ground levels throughout the Decisions Version Residential zoned part of Area 1, (assuming the land is developed for urban residential use).¹⁰

4.15 Relying on my field survey and review of the draft Area 1 Cross Section I am confident that 35m high buildings on the Hynds site will not be visible from Area 1, or, at worst, may be glimpsed from first floor dwellings in Area 1 that are outside the 50m Pokeno Industry Buffer setback where a 5m building height limit applies. I consider that potential glimpses of industrial development from the first floor of dwellings (which are typically not indoor living areas), in the visually complex panorama within which they will be seen (that takes in Pōkeno settlement, the rural hinterland, Mt William and its ridgeline context) are of a scale and extent that they will not detract from visual amenity values for residents.

4.16 I also note that the screening 'outcome' modelled in the Area 1 Cross Section, is one of a number of ways that an effective screening outcome could be achieved between urban residential development in Area 1 and the industrial zoned land. For example, a dense double staggered row of fast-growing evergreen shelter species such as Tasmanian blackwood (which is a proven screening species in the nearby Bombay Quarry), could be integrated along the southern (upper) edge of the EPA, which would achieve a dense visual screen in a far shorter timeframe compared to the native restoration plantings of the EPA.

4.17 Further, on the matter of visual representation of the outlook available from Area 1, **Figure 3** below shows Ms de Lambert's Photograph A

¹⁰ I have discussed the practicalities of developing the DV residential zoned land within Area 1 with the Havelock engineering team and understand that earthworks will inevitably be required in Area 1 (excluding the Hilltop Park). With that in mind, the Area 1 Cross Section models a realistic landform outcome in Area 1 assuming urban residential development.

location plan overlaid with the DV PWDP mapping. **Figure 3** reveals that the photograph relied on by Ms de Lambert to inform her recommendations with respect to the expansion of the Pokeno Industry Buffer (i.e. her Photograph A)¹¹, is taken from a location to the north of (and outside) Area 1, within the Environmental Protection Area (**EPA**) identified in the Decisions Version of the Proposed Waikato District Plan (**DV PWDP**). This means that Ms de Lambert's Photograph A misrepresents, and in my view, exaggerates the visual importance (or prominence) of the industrial zoned land in relation to Area 1.

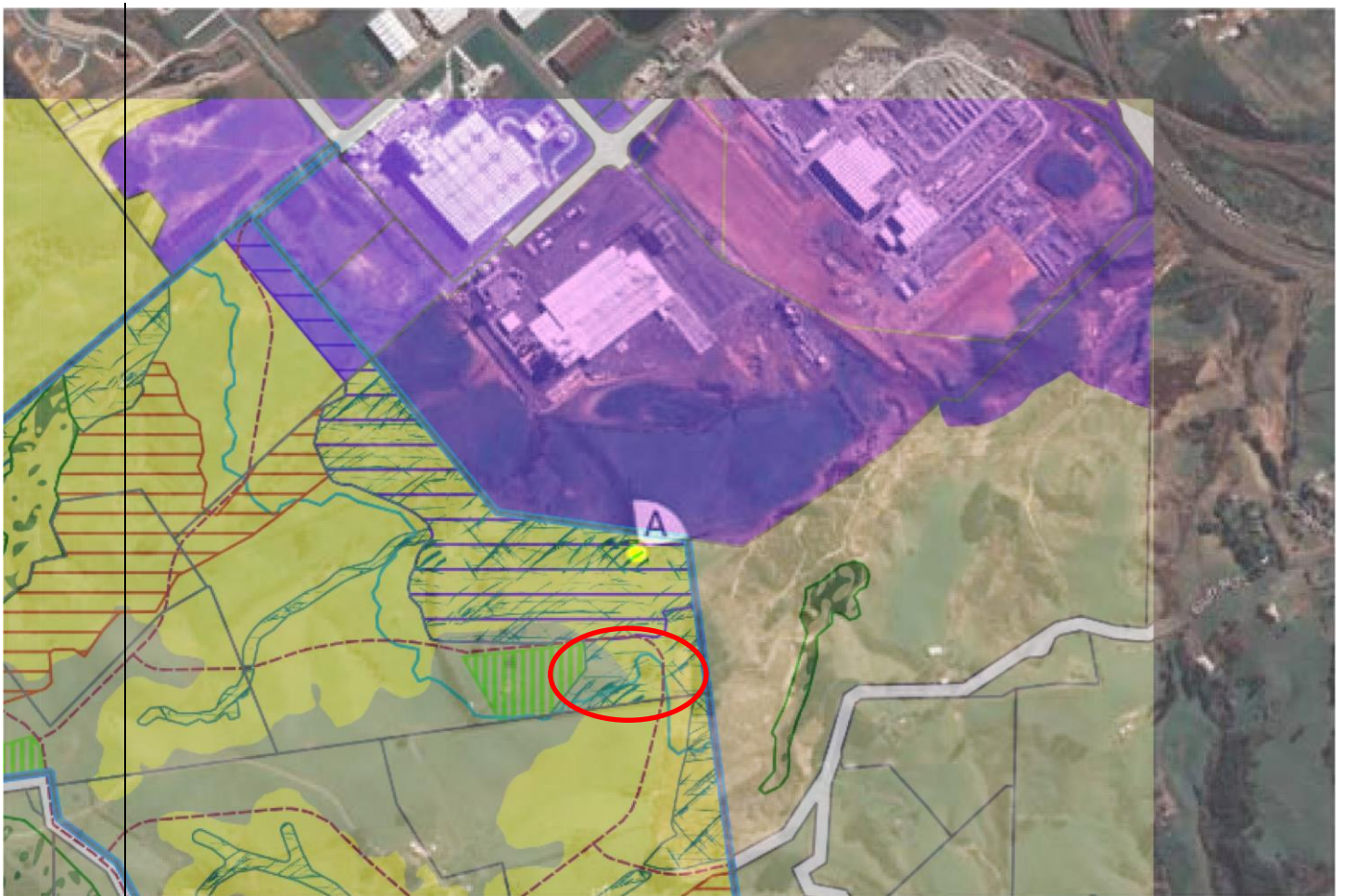


Figure 3: DV PWDP mapping with Ms de Lambert's Photograph A location plan. Red oval approximates the location of Area 1. Refer **Annexure (i) Sheet 4** for an A3 scale version of Figure 3.

4.18 For these reasons, I consider:

c) 'Visual reverse sensitivity' is, in itself, not an issue.

¹¹ Refer Rachel de Lambert EIC: [7.12].

- d) The DV EPA provisions, combined with the inevitable landform modification that will be required to develop the Decisions Version Residential zoned part of Area 1 will deliver adequate visual screening of the existing industrial area for dwellings/residents in Area 1
- e) Any potential incompatibility due to landscape or visual effects can be appropriately managed on this basis.

4.19 However, if the Panel disagrees with respect to Area 1, I consider that limiting the height of buildings within all of Area 1 to 5m (one storey) would further limit the potential outlook over the industrial area.

4.20 In my opinion this would be more consistent with the outcomes of the RMA Enabling Legislation by ensuring that adequate urban uplift is provided and only limiting core land use standards to address site specific issues rather than any development at all.

4.21 For completeness, I do not consider this is strictly necessary to manage visual reverse sensitivity effects as outlined by Ms de Lambert or Ms Nairn but have outlined it as an option to assist the Panel.

5. CONCLUSION

5.1 I understand that the merits or otherwise of the appropriateness of zoning Area 1 for residential use are subject to appeal and any detailed provisions to manage visual (or other) effects are yet to be examined in detail.

5.2 However, within the context of Variation 3, I consider that my landscape analysis confirms that it is unnecessary to expand the Pōkeno Industry Buffer to capture all of Area 1 in the manner recommended by Ms de Lambert and Ms Nairn, as there are plausible landscape mitigation strategies that can achieve an effective and enduring visual screen in this location. These mitigation measures would mean that residential development could still occur in Area 1 and views towards the Hynds land would be filtered or blocked entirely.

5.3 I also note that the key photographic material that Ms de Lambert has relied on to inform her analysis with respect to the potential visual relationship between Area 1 and the industrial zoned land is incorrect as her Photograph A viewpoint is located within the EPA rather than Area 1.

5.4 I remain of the view that no other qualifying matters are required in relation to the Havelock Site from a landscape perspective.

A handwritten signature in black ink that reads "Bridget Gilbert". The signature is written in a cursive, slightly slanted style.

Bridget Gilbert

19 July 2023