

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)

**REBUTTAL EVIDENCE OF RYAN JAMES PITKETHLEY
ON BEHALF OF HAVELOCK VILLAGE LIMITED [Submitter 105]
FOR SUBSTANTIVE HEARING**

(CIVIL ENGINEERING AND STORMWATER)

19 July 2023

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1. SUMMARY OF REBUTTAL EVIDENCE

1.1 My full name is Ryan James Pitkethley. My qualifications and experience are set out in my primary statement of evidence dated 4 July 2023.

1.2 I have considered the matters raised in the primary evidence of other stormwater experts and attended expert conferencing in relation to stormwater matters. A number of key issues raised in my primary evidence have been addressed via conferencing however in some instances full agreement could not be reached or the detail of the provisions remains outstanding:

1.3 **Application of the Stormwater Constraints Overlay/floodplain issues:** During the stormwater expert conferencing, the Council experts advised that the Stormwater Constraints Overlay should only apply to the identified flood plains and not the wider residential areas. This means the 450m² lot size would not apply in residential areas outside the identified flood plains. This is consistent with my primary evidence. The experts identified that a redrafting of the rules needs to be completed to ensure that the Stormwater Constraints Overlay only applies to the part of the site that it is in a flood plain, not the entire site. The rules need to be written so that they can be applied as intended in both (typically larger) greenfield and (typically smaller) brownfield sites. The Overlay could also be renamed for clarity as to its purpose.

1.4 **Stormwater effects – lot size vs impervious area/building coverage:** As stormwater effects are related to impervious area, it is not appropriate to suggest that lot size assists with the management of stormwater. This is particularly the case in large greenfields sites (such as HVL) where overland flowpaths can be specifically designed via roads and overland flowpaths, away from lot development. I understand this issue has now also been generally accepted and that any remaining debate as to vacant site lot size is not related to stormwater effects other than floodplain constraints noted above.

1.5 **Stormwater effects on downstream rural land and its infrastructure:** I agree with the principle that stormwater systems should be effective at managing flooding (including safe access and egress), nuisance or damage to other infrastructure, building and sites, including the rural environment. This would include assessment of ponding areas and primary overland flow paths within and adjoining the Site.

1.6 An assessment of effects of urban development on the downstream and adjacent receiving environments is part of standard engineering design requirements and is well

documented in the Waikato District Regional Infrastructure Technical Specification (RITS)¹ and Waikato Regional Stormwater Management Guideline (TR2020/07).

These effects are assessed during the resource consent processes and will be tailored to the specific site constraints (ie rural, industrial, residential sites and infrastructure adjacent and downstream to the subject site). While not strictly necessary, some minor amendments can be made to the proposed provisions for Variation 3 or the District Plan in relation to this issue as outlined in the JWS dated 13 July 2023.

- 1.7 I considered and support some minor text changes to the stormwater provisions proposed by the experts on behalf of Ms Noakes, Synlait and Hynds.

2. INTRODUCTION

- 2.1 My full name is Ryan James Pitkethley. My qualifications and experience are set out in my primary statement of evidence dated 4 July 2023.

- 2.1 I confirm that I have the qualifications and expertise previously set out in my primary evidence.

Expert Witness Code of Conduct

- 2.2 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.

3. SCOPE OF EVIDENCE

- 3.1 My rebuttal evidence is provided in response to the evidence filed on behalf of Anna Noakes et al, Hynds Pipe Systems Limited and the Hynds Foundation, and Synlait Milk Limited in relation to infrastructure and stormwater issues. This includes the following evidence:

- (a) Matthew Davis on behalf of Anna Noakes and MSBCA Fruhling Trustee's Company Limited;

¹ For example refer to Clause 4.1.8 in the RITS "All stormwater systems shall provide for the management of stormwater runoff from within the land being developed together with any runoff from upstream catchments. Upstream flood levels shall not be increased by any downstream development unless the designer demonstrates that any increase will have minor impact on the upstream properties. The outcome of development shall be that the design of the stormwater system avoids adverse scour, erosion and sediment deposition on land, property and the beds of stormwater receiving water bodies; adverse flooding of land, property and stormwater receiving water bodies; and adverse effects on aquatic ecosystems."

(b) Campbell McGregor on behalf of Hynds Pipe Systems Limited and the Hynds Foundation; and

(c) Nicola Rykers on behalf of Synlait Milk Limited.

3.2 I also attended Expert Stormwater Conferencing held on 11, 12 and 13 July 2023 and am a signatory to the two Joint Witness Statements dated 11 and 13 July 2023. This evidence comments on the key agreements from the conference and the outstanding matters.

3.3 My evidence addresses these matters:

(a) Key agreements reached at conferencing in relation to stormwater constraints overlay;

(b) lot size and impervious area; and

(c) Responses to other submitter evidence not resolved at conferencing.

4. CONFERENCING

Stormwater Constraints Overlay

4.1 At the two expert conferencing sessions (12th and 13th July 2023), the Council experts confirmed that the proposed Stormwater Constraints Overlay only applies to identified flood plains and not all the residential area. I agree with this outcome and it is consistent with my primary evidence.

4.2 The experts also identified that a redrafting of the rules needs to be completed to ensure that the Stormwater Constraints Overlay only applies to the part of the site that it is in, not the entire site. The rules need to be written so that they can be applied as intended in both (typically larger) greenfield and (typically smaller) brownfield sites.

4.3 The following part of the JWS dated 11 July 2023 outlines the issue:

c) **Clarification of drafting in relation to Stormwater constraints overlay**

Mark Tollemache raised concerns that the drafting of the rules (and the Section 32aa paragraph 11.2.5) relating to stormwater (eg SUB-R153) use the terms “site” and “part of the site” interchangeably. This creates uncertainty whether the intention is that rules for example building coverage and lot sizes, are intended to apply to the site or only to part of the site within the overlay. This uncertainty has significant implications for large greenfield sites where if it was the site as a whole, this affects development opportunities and the use of the MDRS.

In response to Mark Tollemache’s concerns, Katja Huls acknowledged that there is a need to review the wording used in a number of rules so that it is clear how the rule is to apply. For example: SUB-R153 clause C.

James Oakley raised the suggestion of using a building platform or shape factor instead of minimum lot size.

The experts agreed to have a separate expert conferencing discussion in relation to this matter. Katja Huls will coordinate organising such a session.

- 4.4 I am in support of Mr Tollemache’s concerns and a redrafting of the rules needs to be completed to ensure that the Stormwater Constraints Overlay only applies to the part of the site that it is in, not the entire site. The rules need to be written so that they can be applied as intended in both (typically larger) greenfield and (typically smaller) brownfield sites (as suggested by the text amendments to Rule SUB-R153 in the JWS dated 13 July 2023).

Impervious area and lot size

- 4.5 At the two expert conferencing sessions (12th and 13th July 2023), agreement was made by all experts that the impervious surface standard (MRZ-S7) should be retained at 70%.
- 4.6 As stormwater effects relate to impervious area, it was generally agreed that lot size does not assist with the management of stormwater. This is particularly the case in large greenfields sites (such as HVL) where overland flowpaths can be specifically designed via roads and overland flowpaths, away from lot development.
- 4.7 The issue is now no longer relevant due to the clarification that the 450m² min lot size should not be applied to areas outside of the Stormwater Constraints Overlay in order to manage stormwater effects, and that the Stormwater Constraints Overlay should be a discretion applied to restricted discretionary activity subdivision pursuant to rule SUB-R153.

4.8 At the expert conferencing, the suggestion of building platform or shape factor could be used instead, however I agree with Mr Tollemache that an efficient approach is to make the Stormwater Constraints Overlay a matter of discretion for the design and modelling of a subdivision and its effects.

5. RESPONSES TO SUBMITTERS EVIDENCE

Matthew Davis on behalf of Anna Noakes and MSBCA Fruhling Trustee's Company Limited.

5.1 Discussion between the experts over two expert conferencing sessions (12th and 13th July 2023) discussed the evidence provided by Matthew Davis relating to potential stormwater impacts on downstream rural land and its infrastructure.

5.2 These included potential effects relating to water quality, stream erosion, flooding issues and how this can reduce useable land and can impact farm infrastructure such as drain crossings.

5.3 Although strictly speaking this is more likely to fall within the ambit of the PDP appeals process, at the conferencing, some suggested amendments to the planning provisions to address this matter were included in the proposed drafting below (SUB-R153 matters of discretion):

(k) The likely effectiveness of the stormwater system to avoid manage flooding (including safe access and egress), nuisance or damage to other infrastructure, buildings and sites, including within the the rural environment General Rural Zone;

(l) The capacity of the stormwater system and ability to manage stormwater;

(m) The potential for adverse effects to the environment in terms of stormwater quantity and stormwater quality effects; and

(n) Extent to which low impact design principles and approaches are used for stormwater management.

5.4 Although complete agreement has not been reached on the drafting of this rule, I agree with the principles behind Mr Davis' evidence but do not consider that substantive changes need to be made to Variation 3 or the District Plan beyond those outlined above because:

(a) An assessment of effects of urban development on the downstream and adjacent receiving environments is part of standard engineering design requirements and is well documented in the Waikato District Regional

Infrastructure Technical Specification (RITS)² and Waikato Regional Stormwater Management Guideline (TR2020/07). These effects are assessed during the resource consent processes and will be tailored to the specific site constraints (ie rural, industrial, residential sites and infrastructure adjacent and downstream to the subject site).

- (b) The objective of the assessment under these guidelines is to either show the required upgrades/improvements needed to be implemented off site, or to show that the mitigation provided on the subject site shows no impact or an improvement to the water quality and quantity for the adjacent and downstream site's land and infrastructure. This is best demonstrated by generating detailed flood modelling outputs for the localised sub-catchment in question, which will use accurate topographical surfaces, structures, land uses and outflows from stormwater mitigation devices. This detail will provide a finer grain and more accuracy to the flood extents identified by the rapid flood modelling completed by Te Miro. The detailed modelling can also be in conjunction with the wider Te Miro catchment model to ensure that the sub-catchment proposals use appropriate boundary conditions and constraints identified in that model, as well as those identified in any Waikato District Council endorsed Stormwater Catchment Management Plan.

- 5.5 Although this assessment is standard practice, I also recommend that Council processing planners are given appropriate stormwater assessment guidance to ensure that the assessments and resource consent approvals are robust and adequately consider these effects.
- 5.6 I agree with the principle that the proposed stormwater system needs to be effective at managing flooding (including safe access and egress), nuisance or damage to other infrastructure, building and sites, including the rural environment. This would include assessment of ponding areas and primary overland flow paths within and adjoining the Site.
- 5.7 I consider that the current rules relating to downstream effects adequately address these matters, however, I am not opposed to including specific mention of rural environment in the discretion (for example SUB-R153 (k)) if it would assist for clarity.

² For example refer to Clause 4.1.8 in the RITS "All stormwater systems shall provide for the management of stormwater runoff from within the land being developed together with any runoff from upstream catchments. Upstream flood levels shall not be increased by any downstream development unless the designer demonstrates that any increase will have minor impact on the upstream properties. The outcome of development shall be that the design of the stormwater system avoids adverse scour, erosion and sediment deposition on land, property and the beds of stormwater receiving water bodies; adverse flooding of land, property and stormwater receiving water bodies; and adverse effects on aquatic ecosystems."

This however may lead to some confusion as to why other specific adjacent land uses have been excluded such as urban, commercial, and industrial, so perhaps they should also be included. I remain neutral on this point.

Campbell McGregor on behalf of Hynds Pipe Systems Limited and the Hynds Foundation

5.8 In his evidence Mr Campbell in paragraph 4.4 proposed that recommendations outlined in any specifically endorsed Stormwater Catchment Management Plan be addressed as part of the land use or subdivision consent assessment process:

4.4 My recommendation as to a means to achieve this outcome, at least in part, would be to include an expanded matter of discretion in the relevant Variation 3 provisions that would allow any recommendations provided for under any specifically Council-endorsed Stormwater Catchment Management Plan (SCMP) to be addressed through

conditions of land use or subdivision consent. I consider the SCMP discretion could also be utilised to address some of the other concerns of Mr Boldero and Ms Huls in ensuring effect is given to “Te Ture Whaimana” and “Te Mana o te Wai”.

This recommendation is also aligned with the concerns raised by Mr Davis, namely to consider downstream effects therefore I am not opposed to the recommendation. I understand that Ms Huls is considering drafting options for this.

Nicola Rykers on behalf of Synlait Milk Limited

5.9 In her evidence Ms Rykers in paragraph 32 recommended additional wording for SUB-R19-(g) as follows:

32 In response to the further technical information prepared in relation to flooding and stormwater, I would recommend additional wording to the matter of discretion under SUB-R19 for subclause (g) to read as follows:

“Ponding areas and primary overland flow paths within and adjoining the Precinct.”

This recommendation is aligned with the concerns raised by Mr Davis, namely to consider downstream effects, therefore I am not opposed to the recommendation. I understand that Mr Tollemache has addressed this matter with Ms Rykers in a JWS dated 19 July 2023.

Ryan Pitkethley

19 July 2023