

**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

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**MEMORANDUM OF COUNSEL  
ON BEHALF OF HAVELOCK VILLAGE LIMITED  
FOR SUBSTANTIVE HEARING**

**1 AUGUST 2023**

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## **MAY IT PLEASE THE COMMISSIONERS**

1. This memorandum is filed on behalf of Havelock Village Limited (**HVL**) in relation to Variation 3: Enabling Housing Supply to the Proposed Waikato District Plan.
2. HVL appeared before the Panel on Friday 27 July 2023 and during the presentation the Panel requested HVL file the following additional information by midday today, 1 August:
  - (a) A revised version of HVL's proposed vacant lot subdivision rule to address questions raised by the Panel with Mr Tollemache during presentation of his evidence. No further changes are sought to the Havelock Precinct provisions. The version attached to Mr Tollemache's hearing summary remain the current preferred provisions for HVL.
  - (b) Counsel for HVL undertook to update the Panel, following the presentation by Pokeno Village Holdings Limited (**PVHL**) on Day 4 of the hearing, regarding the proposed removal of a small area of EPA from Area 1 as agreed between Hynds and HVL to be replaced with a height restriction provision to manage any potential reverse sensitivity effects. PVHL were the only remaining party that had supported its retention. HVL remains of the view removal of the district plan EPA provision is within scope of V3 where the Panel's obligations under the Amendment Act necessarily involve making a decision on whether that urban residential zoned land should be qualified by a plan provision such as the EPA planting and covenant mechanism or is better provided for and managed via the agreed height limitation in terms of s77L. In any event, PVHL has now confirmed in oral submissions to the Panel that its interest in Area 1 was in support of Hynds and in reliance of Ms de Lambert's evidence, therefore it is no longer pursuing any relief in this area, which would include the retention of the EPA in this area. For completeness, HVL notes that the portion of EPA to be removed only represents a very small proportion of the overall EPA area to be set aside to protect other site features via the Havelock Precinct provisions.
  - (c) At the hearing, Commissioner Serjeant had some questions about the site and its context. To assist, Ms Gilbert also considered that the Panel might be assisted by Photographs 1 and 2 within the Annexures to her rebuttal evidence, which provide the most accurate and up to date views from Area 1. The location of where the photos were taken is shown at page 3.

3. HVL is happy to provide any additional material the Panel needs for its deliberations.

**DATED:** 1 August 2023

A handwritten signature in black ink, appearing to read 'V S Evitt', with a small mark above the 'i'.

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

## HAVELOCK PRECINCT PROVISIONS

1 AUGUST 2023

Existing provisions in PDP in black

Amendments from Council primary evidence in [green](#)

Amendments from HVL evidence in [blue](#)

Additional amendments from HVL rebuttal evidence, minimum lot size rules and agreed JWS in [purple](#)

### Minimum Subdivision Lot Size – SUB-R153

#### Option 1 – 300 m2 Lots

(ii) In the minimum vacant lot size ~~restriction~~ area proposed vacant lots must have a minimum net site area (excluding access legs) of 300m<sup>2</sup>, except where the proposed lot is an access lot, utility allotment, or reserve to vest; and

#### Option 1A – 300 m2 plus basic design (response to Question of Commissioner Serjeant)

(ii) In the minimum vacant lot size ~~restriction~~ area proposed vacant lots must have a minimum net site area (excluding access legs) of 300m<sup>2</sup> and a minimum road frontage width of a front lot of 12.5m, except where the proposed lot is an access lot, utility allotment, or reserve to vest; and

#### Option 2 – Reflecting on Mr Munro’s Rebuttal Evidence and his urban design factors (post hearing amendments)

(ii) In the minimum vacant lot size area proposed vacant lots must have a minimum net site area (excluding access legs) of:

(a) For a front lot, 250 m2 provided that:

- There is a minimum road frontage width of 9.5m; and
- Where a lot has a road frontage width less than 12.5m there must be a single width vehicle crossing and future garaging is restricted to a single garage width;

(b) For a rear lot, net 300 m2 (excluding an access legs) provided that:

- It contains a shape factor of 19.5m (minimum) x 13m (minimum)

except where the proposed lot is an access lot, utility allotment, or reserve to vest; and

Amendments to SUB-R153 including option 3 in clause (1)(a)(ii) below

SUB-R153	Subdivision – general	
MR22 – Medium density residential zone 2	<p>(1) <b>Activity status: RDIS</b></p> <p><b>Activity specific standards:</b></p> <p>(a) <u>Except where SUB-R154 (Subdivision – residential) applies,</u> sSubdivision must comply with all of the following standards:</p> <p>(i) <u>Except in the minimum vacant lot size restriction area,</u> pProposed vacant lots must have a minimum net site area (excluding access legs) of 200m<sup>2</sup>, except where the proposed lot is an access allotment, utility allotment or reserve to vest; <del>and</del></p> <p>(ii) <u>In the minimum vacant lot size area proposed vacant lots must have a minimum net site area (excluding access legs) of:</u></p> <p>(a) <u>For a front lot, 250 m2 provided that:</u></p> <ul style="list-style-type: none"> <li>• <u>There is a minimum road frontage width of 9.5m; and</u></li> <li>• <u>Where a lot has a road frontage width less than 12.5m there must be a single width vehicle crossing and future garaging is restricted to a single garage width;</u></li> </ul> <p>(b) <u>For a rear lot, net 300 m2 (excluding an access legs) provided that:</u></p> <ul style="list-style-type: none"> <li>• <u>It contains a shape factor of 19.5m (minimum) x 13m (minimum) except where the proposed lot is an access lot, utility allotment, or reserve to vest; and</u></li> </ul> <p>(iii) <u>(i) and (ii) Above do not apply to land within the Slope Residential Area in the Havelock Precinct where proposed minimum vacant lots must have a minimum net site area of 2,500m<sup>2</sup>, except where the proposed lot is an access allotment, utility allotment or reserve to vest</u></p> <p>(b) Proposed vacant lots must be able to connect to public-reticulated water supply and wastewater.</p> <p><b>Council’s discretion is restricted to the following matters:</b></p>	<p>(2) <b>Activity status where compliance not achieved: DIS</b></p>

- (c) Subdivision layout;
- (d) Shape of lots and variation in lot sizes;
- (e) Ability of lots to accommodate a practical building platform including geotechnical stability for building;
- ~~(f) Likely location of future buildings and their potential effects on the environment;~~
- (g) Avoidance or mitigation of natural hazards, [particularly in the Flooding Constraints Overlay](#);
- (h) Opportunities for streetscape landscaping;
- (i) Vehicle and pedestrian networks;
- (j) Consistency with any relevant structure plan or master plan including the provision of neighbourhood parks, reserves and neighbourhood centres; ~~and~~
- (k) Provision of infrastructure:-
- (l) [In the Waikato River Catchment the extent to which the application enhances or benefits the Waikato River and its tributaries](#);
- (m) [The effectiveness of the stormwater system to manage flooding \(including safe access and egress\), nuisance or damage to other infrastructure, buildings and sites, including the rural environment](#);
- (n) [The capacity of the stormwater system and ability to manage stormwater](#);
- (o) [The potential for adverse effects to the environment in terms of stormwater quantity and stormwater quality effects](#);
- (p) [Extent to which low impact design principles and approaches are used for stormwater management](#); and
- (q) [Consistency with the relevant stormwater catchment management plan](#).

*[Advice Note: A water, wastewater and/or stormwater connection approval from the network provider will be required. The presence of infrastructure that can service the lot or unit does not guarantee a connection will be possible and capacity is available to service new development.](#)*

## Additional provisions applying to the Havelock Precinct

<b>PREC4-SX</b>	Residential unit within the Slope Residential Area	
<b>(1) Activity status: PER</b> <b>Where:</b> (a) One residential unit per site.		<b>(2) Activity status where compliance not achieved: DIS</b>
<b>PREC4-SX</b>	Building coverage within the Slope Residential Area	
<b>(3) Where:</b> (a) The maximum building coverage must not exceed 40% of the net site area.		<b>(4) Activity status where compliance not achieved: DIS</b>
<b>PREC4-SX</b>	Height – Havelock height restriction areas	
<b>(1) Activity status: PER</b> <b>Where:</b> (a) A building or structure with a maximum height not exceeding 5m, measured from the ground level, where it is located within <u>any of the following height restriction areas identified on the planning maps the:</u> (i) <u>Havelock industry buffer height restriction area; and/or</u> (ii) <u>Havelock hilltop park height restriction area; and/or</u> (iii) <u>Havelock ridgeline height restriction area; and/or</u> (iv) <u>Area 1 height restriction area.</u>		<b>(2) Activity status where compliance not achieved: DIS</b>
<b>PREC4-SX</b>	Building setback – sensitive land use within PREC4 – Havelock precinct	
<b>(3) Activity status: PER</b> <b>Where:</b> (a) Any new building or alteration to an existing building for a sensitive land use within the PREC4 – Havelock precinct that is located outside the <u>Pokeno Havelock</u> Industry Buffer identified on the planning maps.		<b>Activity status where compliance not achieved: NC</b>
<b>(4) PREC4-SX</b>	Building design – sensitive land use with PREC4 – Havelock precinct	
<b>(5) Activity status: PER</b> <b>Where:</b> (a) <u>A building or structure with a maximum height not exceeding 8m, measured from the ground level immediately below that part of the structure, where it is located outside the Havelock Industry Buffer and</u>		<b>(6) Activity status where compliance not achieved: DIS</b>

[the 'Height Restriction Area' but within the 40 dB LAeq noise contour shown on the planning maps. \(8m height 40dBa Noise Contour\)](#)

(b) Any new building or alteration to an existing building for a sensitive land use located outside the Havelock Industry Buffer but within the 40 dB LAeq noise contour shown on the planning maps that is designed and constructed so that internal noise levels do not exceed 25 dB LAeq in all habitable rooms.

(c) Provided that if compliance with clause (a) above requires all external doors of the building and all windows of these rooms to be closed, the building design and construction as a minimum:

(i) Is mechanically ventilated and/or cooled to achieve an internal temperature no greater than 25°C based on external design conditions of dry bulb 25.1 °C and wet bulb 20.1 °C.

(ii) Includes either of the following for all habitable rooms on each level of a dwelling:

(1) Mechanical cooling installed; or

(2) A volume of outdoor air supply to all habitable rooms with an outdoor air supply rate of no less than:

i) 6 air changes per hour for rooms with less than 30% of the façade area glazed;

ii) 15 air changes per hour for rooms with greater than 30% of the façade area glazed;

iii) 3 air changes per hour for rooms with facades only facing south (between 120 degrees and 240 degrees) or where the glazing in the façade is not subject to any direct sunlight.

(iii) Provides relief for equivalent volumes of spill air.

All is certified by a suitably qualified and experienced person.



**JWS (Synlait) amendment to SUB-R19**

<b>SUB-R19</b>	Subdivision – building platform within PREC – Havelock precinct	
PREC4 – Havelock precinct	<p><b>(3) Activity status: RDIS</b></p> <p><b>Activity specific standards:</b></p> <p>(a) Subdivision within PREC4 – Havelock precinct where every proposed lot, other than one designed specifically for access, or is a utility allotment, is capable of containing a building platform complying with SUB-R18(1) located outside the Pōkeno Industry Buffer illustrated on the planning maps.</p> <p><b>Council’s discretion is restricted to the following matters:</b></p> <p>(a) Subdivision layout;</p> <p>(b) Shape of allotments;</p> <p>(c) Ability of allotments to accommodate a practical building platform;</p> <p>(d) Likely location of future buildings and their potential effects on the environment;</p> <p>(e) Avoidance or mitigation of natural hazards;</p> <p>(f) Geotechnical suitability for building; and</p> <p>(g) Ponding areas and primary overland flow paths <u>within and adjoining the Precinct</u>.</p>	<p><b>(4) Activity status where compliance not achieved:</b></p> <p><b>NC</b></p>

**JWS (Area 1) amendment to SUB-R21**

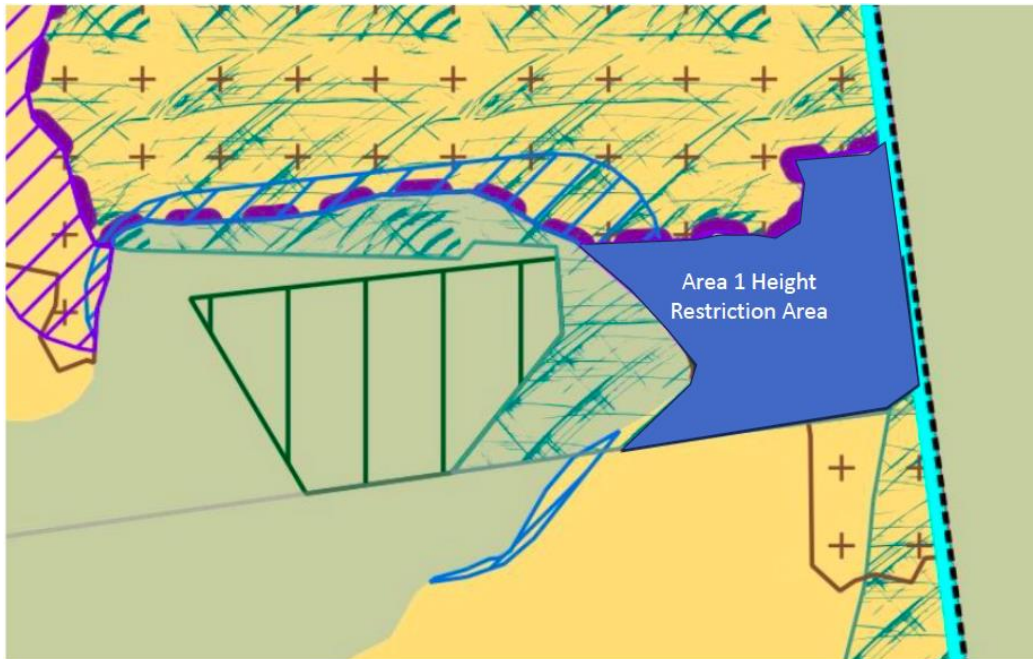
<p><b>SUB-R21</b></p>	<p>Subdivision – PREC4 – Havelock precinct</p>	
<p>PREC4 - Havelock precinct</p>	<p><b>(1) Activity status: RDIS</b></p> <p><b>Activity specific standards:</b></p> <p>(a) Subdivision within the PREC – Havelock precinct that complies with all of the following standards:</p> <p>(i) 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>(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 <a href="#">Pōkene Havelock</a> 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> <p>(1) Achieve noise levels no greater than 45 dB L<sub>Aeq</sub> between 10pm and 7am in the PREC4 – Havelock precinct and GRZ – General residential zone; and</p> <p>(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 and 5m front yard setback – Rule GIZ-S6(1)(a)(1)).</p> <p><b>Council’s discretion is restricted to the following matters:</b></p>	<p><b>(2) Activity status: DIS</b></p> <p><b>Where:</b></p> <p>(a) Subdivision that does not comply with Rule SUB-R21(1)(a)(i) – (iv)</p> <p><b>(3) Activity status: NC</b></p> <p><b>Where:</b></p> <p>(a) Subdivision that does not comply with Rule SUB-R21(1)(a)(v).</p>

	<p>(b) Consistency with the Havelock Precinct Plan (APP14 – Havelock precinct plan);</p> <p>(c) Design and construction of the indicative roads and pedestrian networks;</p> <p>(d) Design, location and timing of construction of the acoustic barrier within the Havelock Precinct’s GIZ – General industrial zone;</p> <p>(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;</p> <p>(f) Design of the Hilltop Parks and adjoining park edge roads;</p> <p>(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;</p> <p>(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;</p> <p>(i) The design of, and potential effects on, the safe and efficient operation of the intersections of:</p> <p>(ii) Yashili Drive and Gateway Park Drive;</p> <p>(iii) Gateway Park Drive and Hitchen Road; and</p> <p>(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, <a href="#"><u>including a 3m width band of fast growing evergreen indigenous species along the upper</u></a></p>	
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	<p><u>edge of the Havelock Industry Buffer to provide a planting screen within the short term;</u></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 <u>Pōkene Havelock</u> 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>	
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**Planning Maps and Precinct Plan - Area 1 Height Restriction Area**

Amend to apply '5m Height Restriction Area' to the area identified as 'Area 1' below.



**Environmental Protection Area:**

Deletion of the Environmental Protection Area from Area 1 as below:

