

**BEFORE AN INDEPENDENT HEARINGS PANEL
OF THE WAIKATO DISTRICT COUNCIL**

IN THE MATTER of the Resource
Management Act 1991

AND

IN THE MATTER of the proposed Waikato
District Plan (Stage 1)
Hearing 5

LEGAL SUBMISSIONS ON BEHALF OF HYNDS PIPE SYSTEMS LIMITED

Dated: 5 November 2019

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1. INTRODUCTION

- 1.1** These submissions are made on behalf of Hynds Pipe Systems Limited (**Hynds**) which operates a concrete manufacturing and distribution site at 9 McDonald Road, Pokeno (**Hynds Site**). The Hynds Site is zoned 'Heavy Industrial' under the Operative Waikato District Plan (**Operative Plan**) and the Proposed Waikato District Plan (**Proposed Plan**).
- 1.2** Hynds made a submission (submitter number 983) and a further submission on the Proposed Plan.
- 1.3** Hynds is owned by the Hynds Group, which is a family owned and operated business that specialises in the manufacture and supply of construction materials in New Zealand and Australia. The directors of the Hynds Group have also established the Hynds Foundation, a charitable foundation that is the owner of the land adjoining the Hynds site, 62 Bluff Road. The Hynds Foundation is also a submitter and further submitter on the Proposed Plan.
- 1.4** Hynds has made a considerable multi-million dollar investment to establish a plant that operates 24 hours a day and manufactures critical building supplies. The nature of Hynds' operations and the investment it has made in Pokeno will be addressed comprehensively in evidence presented at the later hearings on the Proposed Plan, as will the need to enable and encourage industrial activities in the Heavy Industrial Zone. Fundamentally, Hynds has serious concerns about the reverse sensitivity effects that would result from some of the zoning included in the Proposed Plan, and from the re-zoning requests made by a number of submitters.

2. DEFINITION – INDUSTRIAL ACTIVITY

- 2.1** Synlait Milk Limited's submission requested that the definition of "Industrial Activity" should be amended to be consistent with the definition proposed in the Draft National Planning Standard. Hynds' further submission supports Synlait's submission in full.
- 2.2** The Reporting Officer has made a recommendation to adopt the Final National Planning Standard definition for Industrial Activities and Ancillary Activities.

2.3 Evidence has been filed with the Hearings Panel by the Hynds Foundation in relation to this definition. A copy of this evidence is attached to these submissions as Attachment A and is adopted by Hynds. For the reasons set out in that evidence Hynds supports this recommendation.

3. REVERSE SENSITIVITY

3.1 A particular concern of Hynds in relation to the Proposed Plan is the potential for reverse sensitivity effects on its operations. This concern arises as a result of the proposed zoning of land adjacent to the Hynds Site in the Proposed Plan, as well as zoning changes sought by submitters. These concerns are set in detail in Hynds' submission and further submission and will be addressed comprehensively in the later hearings on the Proposed Plan.

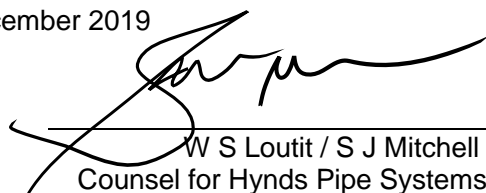
3.2 For the purposes of Hearing 5, Hynds is interested in the definitions that relate to issues of reverse sensitivity, specifically the definitions of "noise sensitive activities" and "sensitive land use". Reverse sensitivity is a significant land management issue that must be addressed, and appropriately provided for in the Proposed Plan.

3.3 Synlait's submission sought the retention of the definitions of "noise sensitive activities" and "sensitive land use" as notified. Hynds' further submission supported this request. The Reporting Officer has recommended that these definitions are retained with amendments to address relief sought by other submitters. Those amendments are acceptable to Hynds.

4. CONCLUSION

4.1 As set out above, Hynds agrees with the recommendations of the reporting officer in respect of the definitions in the Proposed Plan discussed above. These recommendations will meet the relief sought by Hynds in its further submission. On that basis we do not wish to be heard at Hearing 5 and request that these legal submissions are tabled.

DATED at Auckland this 5th day of December 2019



W S Loutit / S J Mitchell
Counsel for Hynds Pipe Systems Limited

Attachment A

BEFORE THE INDEPENDENT HEARINGS PANEL

PROPOSED WAIKATO DISTRICT PLAN (STAGE 1)

Under the Resource Management Act 1991 (**RMA**)

In the matter of hearing submissions and further submissions on the Proposed
Waikato District Plan (Stage 1) – **Hearing 5 Definitions**

By Hynds Foundation (Submitter)

Statement of evidence by Anna McLellan, The Surveying Company Ltd

Dated: November 2019

INTRODUCTION

1. My full name is Anna McLellan. I am a Senior Planner at The Surveying Company in Pukekohe.
2. I have the following qualifications and experience relevant to my evidence:
 - (a) My relevant professional experience spans over 12 years in local government and private sector roles in New Zealand. I have a Bachelor's of Science and a Masters in Applied Science (Natural Resource Management) from Massey University.
 - (b) I have held the following positions:
 - Consents Planner at Taupo District Council and Waipa District Council processing landuse and subdivision consent applications;
 - Project Planner at Waipa District Council processing significant or contentious subdivision and landuse consent applications, approving 223/224c applications;
 - Consents Quality Reviewer at Waipa District Council which included the technical review of planning reports for subdivision and landuse consents and the preparation of other in-house planning documents, such as condition manuals.
 - Senior Planner position at The Surveying Company in Pukekohe preparing applications for landuse and subdivision consents, and submissions on behalf of clients.
3. This evidence is prepared on behalf of the Hynds Foundation (FS1306). The Hynds Foundation (the Submitter) is the charitable foundation established by the directors of The Hynds Group. The Hynds Group is a family owned and operated business which specialises in the manufacture and supply of construction materials in New Zealand and Australia. The Hynds Group own Hynds Pipes Systems Limited, whose main site is situated at 9 McDonald Road, Pokeno. The Submitter is the owner of land adjoining being 62 Bluff Road.
4. In preparing this statement of evidence I have read the section 42A report prepared by Anita Coplestone and Megan Yardley, the Reporting Officers for Waikato District Council; the summary of submissions and any relevant submissions lodged in respect of the Definitions Chapter; as well as any relevant information prepared for the Plan Change.

CODE OF CONDUCT

5. I confirm that I have read the 'Expert Witnesses Code of Conduct' contained in the Environment Court of New Zealand Practice Note 2014. My evidence has been prepared in compliance with that Code in the same way as I would if giving evidence in the Environment Court. In particular, unless I state otherwise, this evidence is within my sphere of expertise and I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.

SCOPE OF EVIDENCE

6. This evidence is provided in support of the further submission (FS1306) on the Proposed Waikato District Plan – Stage 1 (PWDP). Specifically my evidence will focus on the submission point (FS1306.31) relating to the definition of Industrial Activity.

DEFINITION – INDUSTRIAL ACTIVITY

7. The definition of Industrial Activity as notified in the PWDP states:

'Means the production, processing, bulk moving or storage in bulk of any materials, goods or products:

Production includes:

- a. manufacturing; and*
- b. assembly from components.*

Processing includes:

- a. repair;*
- b. servicing;*
- c. maintenance; and*
- d. assembly of materials, goods or product.*

Bulk storage includes:

- a. warehousing.'*

8. The original submission point made by Penny Gallagher on behalf of Synlait opposed the definition of Industrial Activities as notified (581.20). The relief sought by Synlait was to amend the PWDP definition to be consistent with the

definition provided in the National Planning Standards or amend to include research facilities, laboratories, yard-based activities, logistics and transport related activities where they are ancillary components of an Industrial Activity.

9. The submitter made a further submission (FS1306.31) supporting Synlait's submission to broaden the definition of Industrial Activity to include accessory/ancillary activities. The submitter's core business is the manufacturing and supply of water management systems. The business also includes offices, large outside yard areas, logistics and transport. While the core business generally fits within Industrial Activity definition in the PWDP, supporting activities that are essential to the operation of the business do not.
10. I am of the opinion that the definition presented in the PWDP was too limiting for industrial activities and not reflective of the nature of the businesses anticipated to be sited within an Industrial Zone. The Industrial Zone provisions need to provide for the operation of these businesses without creating unnecessary consenting hurdles for supporting components.
11. Consideration of the 'Industrial Activities' definition is set out in section 3.44 of Council's 42a Report. The reporting officers have recommended the National Planning Standards definition be adopted as follows:

'means an activity that manufactures, fabricates, processes, packages, distributes, repairs, stores, or disposes of materials (including raw, processed, or partly processed materials) or goods. It includes any ancillary activity to the industrial activity.'

The reporting officers have also recommended the inclusion of the National Planning Standards definition for Ancillary Activities as follows:

'means an activity that supports and is subsidiary to a primary activity.'

12. I note that the further submission made by the submitter is not referenced in section 3.44 of the s42a Report, however the recommendation to accept the further submission is listed in the Table of Submissions in Appendix 1. I agree with the Reporting Officer's recommendation to adopt the National Planning

Standard definition for Industrial Activities and Ancillary Activities. I am of the opinion this meets the relief sought by the submitter.

CONCLUSION

13. Overall I support the Reporting Officer's recommendation to adopt the National Planning Standard definition for Industrial Activities and Ancillary Activities and agree this meets the relief sought by the submitter. On this basis the submitter does not wish to be heard at the hearings for the Definitions section of the PWDP and requests that this evidence be tabled.

Anna McLellan

November 2019