

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 1)

EVIDENCE OF MARK SEYMOUR MANNERS TOLLEMACHE
ON BEHALF OF HAVELOCK VILLAGE LIMITED [Submitter 105]
FOR JOINT HIGH LEVEL ISSUES HEARING
(PLANNING)
1 February 2023

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1. EXECUTIVE SUMMARY

- 1.1 My full name is Mark Seymour Manners Tollemache. I am a town planner.
- 1.2 I am providing planning evidence in relation to the submission and further submissions by Havelock Village Limited (**HVL**). In this evidence I comment on the appropriateness of the Waikato District Council's (**WDC**) proposed Urban Fringe qualifying matter.
- 1.3 I consider the correct application of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (**RM-EHS**) necessitates the deletion of the Urban Fringe qualifying matter from Variation 3 (**V3**) to the Proposed Waikato District Plan.
- 1.4 I also consider that the RM-EHS supports the utilisation of the Medium Density Residential Standards (**MDRS**), identifying one to three units as a permitted activity and a consenting path for four or more units over the entirety of the relevant residential areas within the four identified towns (unless the qualifying matters listed in section 771 justify an appropriate exception to the MDRS).
- 1.5 Limiting the application of the MDRS and the proposed Medium Density Residential Zone 2 (**MDRZ2**) to the 800-metre walkable distance within the four identified towns would result in considerable inefficiencies in terms of the use of all residential land, particularly for greenfield areas. In my opinion, this does not give effect to the National Policy Statement on Urban Development (**NPS-UD**) as outside the MDRZ2 opportunities for intensification are limited, resulting in few opportunities for a diversity of housing and price points (affordability). The justification for the restricted approach in the Section 32 for V3 does not adequately account for the costs of such an approach given that the four main towns, and in particular Pokeno, are to accommodate the greatest proportion of the District's population growth and also provide for the widest demographics. I consider that these costs far outweigh the benefits identified in the Section 32.
- 1.6 This limitation fails to adequately recognise that the zoned urban perimeters of these towns in terms of the Proposed District Plan – Decision Version (**PDP-DV**) represent the footprints within which compact urban form and well-functioning urban environments can be developed. That was the basis of Council's decisions in the PDP-DV. Walkable catchments and distances are a component of, and not a definition of, well-functioning urban environments.

- 1.7 I do not consider that the well-functioning urban form of Pokeno (or the other three towns) would be achieved by only applying the MDRS to a small walkable distance. I consider that a well-functioning urban environment includes many factors as outlined by Policy 1 of the NPS-UD, all of which could be successfully achieved through applying MDRS to the entire residential area within Pokeno.
- 1.8 For these reasons, I support the relief sought as outlined in the submission by HVL to delete the Urban Fringe qualifying matter.

2. INTRODUCTION

- 2.1 My full name is Mark Seymour Manners Tollemache.

Qualifications and experience

- 2.2 I have the qualifications of a Bachelor of Planning (Hons) (1996) and Master of Planning (Merit) (1999) from the University of Auckland.
- 2.3 I have 26 years' experience in planning. I have been an independent planning consultant since 2004 as Director of Tollemache Consultants Ltd. Prior to that, I held senior planner and planner positions at North Shore City Council and Common Ground Urban Design Ltd.
- 2.4 I have extensive experience in the preparation of district plans, plan changes, resource consent applications, assessments of environmental effects and being an expert witness at hearings.
- 2.5 Local experience includes the Proposed Waikato District Plan (particularly in respect to Pokeno) and Plan Changes associated with Pokeno, Belmont - Pukekohe, Kingseat, Franklin District's Rural Plan Change 14, Waikato District's Plan Change 2 / Plan Variation 13, Drury Plan Variation 15 / Plan Change 6 / Plan Change 51, and Rotokauri North Plan Change and Special Housing Area, along with resource consents associated with Pokeno, Kingseat village, Karaka North village, Tuakau industrial zones, and Bombay quarry and managed fill.

Expert Witness Code of Conduct

- 2.6 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 evidence addresses these matters:

- (a) The statutory requirements of the RM-EHS;
- (b) Specific characteristics of the four towns in the Waikato District, the Council's proposed Urban Fringe qualifying matter and 800m walking catchment;
- (c) The implications (particularly costs) of implementing the Council's proposed Urban Fringe qualifying matter and the Section 32 evaluation;
- (d) Whether the Council's proposed Urban Fringe qualifying matter achieves the objectives of, or gives effect to, relevant higher order documents; and
- (e) Conclusion.

3.2 This evidence primarily address the strategic matters relating to this first hearing. Details of the Havelock site and the necessary amendments to the PDP-DV following the deletion of the qualifying matter will be addressed in the second hearing, specific to V3. However, it is important to understand that the potential application of Council's proposed Urban Fringe qualifying matter is of material consequence insofar as it applies to recently rezoned urban areas of Pokeno.

4. BACKGROUND

4.1 HVL and its related companies intend to develop a comprehensive integrated residential development on land adjoining the existing urban area of Pokeno to the south-west (**Havelock**).

4.2 HVL lodged submissions on the Proposed Waikato District Plan seeking residential zoning of its land and took part in various hearings from late 2019 until mid-2021. The Council's decision on the Proposed District Plan rezoned the majority of Havelock to General Residential Zone (**GRZ**), with Precinct Provisions to manage variations in development within Havelock as appropriate (**Decision**). HVL has appealed part of the Decision to the Environment Court seeking that the entire site be zoned for residential development subject to Precinct Provisions. I do not intend to outline the site-specific characteristics of Havelock in this evidence but will do so at the second stage of hearings specific to V3.

- 4.3 Havelock has been identified as a location for urban growth in the most relevant strategic growth documents including:
- (a) Waikato 2070 as a future residential growth area in the 3–10-year time period; and
 - (b) The Updated Future Proof Strategy 2022 identifies Havelock as a location of residential growth (referred to as an urban enablement area) in the medium term (5-10 years).
- 4.4 As such, decisions that impact the potential development of urban residential land such as the implementation of the MDRS are of particular relevance to the use HVL's land in the future.
- 4.5 The application of the Urban Fringe qualifying matter in V3 means that none of the land owned by HVL in Pokeno (or land identified as Pokeno West) is upzoned under V3 or benefits from the medium density housing standards in the RM-EHS. These are the only substantial greenfields growth areas in Pokeno and are forecast to accommodate the majority of growth.
- 4.6 The areas outside the proposed MDRZ2 are either: existing residential areas developed as 450m² sections (through the provisions of the Pokeno Plan Change PC24); or the greenfield areas at Havelock and Pokeno West. As noted in the section 32, there are restrictive covenants on a very high proportion of the existing sites in Pokeno which place limitations on having more than one storey, the number of dwellings and subsequent subdivision.¹ These private covenants are associated with the new housing areas developed in the Helenslee, Hitchens and Graham Blocks by Pokeno Village Holdings Limited which effectively mean that land in those locations cannot be further developed with additional houses or further subdivided.
- 4.7 The consequence is that the majority of future growth is to be accommodated within Havelock and Pokeno West. These are the areas which are currently limited to 450m² lots in terms of the PDP-DV and they are not included in the proposed MDRZ2. Therefore, the PDP-DV provisions constrain growth in these two residential areas of Pokeno where most opportunity exists to provide a variety of housing sizes, types and price points.
- 4.8 By limiting the extent of MDRZ2, V3 has cut out the very areas in Pokeno that were zoned through the PDP-DV to accommodate most new growth. This evidence

¹ Volume 2, page 82.

addresses this matter in detail, but effectively the issue is that V3 is short-sighted in the opportunity to efficiently utilise all the zoned land resource and to provide a variety of housing sizes, types and price points. The current effect of V3 applying to such a limited extent is that it may support the development of 5 to 10 houses per year, compared with recent growth rates of over 200 households in the greenfields areas of Pokeno.

5. RESOURCE MANAGEMENT (ENABLING HOUSING SUPPLY AND OTHER MATTERS) AMENDMENT ACT 2021

- 5.1 My understanding of the RM-EHS is that it was introduced to increase the supply of housing in areas where the demand for housing is high. As noted in its title, the RM-EHS seeks to address New Zealand's housing shortage and unaffordable housing by enabling the supply of housing. My understanding is this includes the opportunity to remove barriers, such as resource consent processes (the implication of one to three units being permitted), so that the required housing capacity over a 30-year period (aligning with the directives of the NPS-UD) can be more effectively realised.
- 5.2 The RM-EHS requires the Council to apply the MDRS to the 'relevant residential areas' in Tuakau, Pokeno, Huntly and Ngaruawahia, unless any of the specific qualifying matters listed in section 77I apply to a site.
- 5.3 Subject to these qualifying matter exceptions, I consider that this requires Council to apply the MDRS to the entire General Residential Zone and the Medium Density Residential Zone within these towns, both of which are the result of the PDP-DV. It does not permit the application of the MDRS to a much smaller portion of land identified in V3, as the MDRZ2 adopting a blanket 'qualifying matter' based on the existing urban centres which has not, and cannot be, properly justified in terms of section 77I.

6. COUNCIL'S PROPOSED URBAN FRINGE QUALIFYING MATTER

- 6.1 I have reviewed section 77L of the RM-EHS and the section 32 analysis prepared by Council regarding the proposed Urban Fringe qualifying matter, which I understand is based on 800-metre walkable catchments and the potential planning and urban form benefits of limiting intensification to just those areas.
- 6.2 I do not consider that the proposed Urban Fringe qualifying matter satisfies any of the following qualifying matters that are prescribed by section 77I. In my opinion, the restriction of intensification opportunities to within an 800m walkable catchment is:

- (a) not a matter of national importance that decision makers are required to recognise and provide for under section 6;
- (b) not a matter required in order to give effect to a national policy statement (other than the NPS-UD) or the New Zealand Coastal Policy Statement 2010;
- (c) not a matter required to give effect to Te Ture Whaimana o Te Awa o Waikato – the Vision and Strategy for the Waikato River;
- (d) not a matter required to give effect to the Hauraki Gulf Marine Park Act 2000;
- (e) not a matter required for the purpose of ensuring the safe or efficient operation of nationally significant infrastructure;
- (f) not relating to open space provided for public use;
- (g) not needed to give effect to a designation or heritage order;
- (h) not a matter necessary to implement, or to ensure consistency with, iwi participation legislation; and
- (i) not related to the requirement to provide sufficient business land suitable for low density uses to meet expected demand.

6.3 For the reasons stated below, I do not consider that the proposed Urban Fringe qualifying matter satisfies the requirements of section 771(j) as a potential ‘other matter’ that is not specified in section 771(a) to (i).

6.4 I note the following paragraph 91 in Mr Ebenhoh’s evidence (on behalf of Council) which acknowledges the additional requirements of section 77L for potential other matters in section 771(j):

*91. Whilst the Waikato DC does not resile from the planning rationale set out in the section 32 report in support of the Urban Fringe qualifying matter,⁴⁰ **it reluctantly acknowledges that the deliberately constrained wording of the Enabling Housing Act makes it very challenging for a qualifying matter under section 99(1)(j) to meet the additional legal requirements set out in section 77L.** This is ultimately a matter for the hearing panel to consider after having considered submissions and evidence, but Waikato DC will not be bringing evidence to the substantive hearing in 2023 to support the Urban Fringe qualifying matter. **[my emphasis in bold]***

6.5 Even if Council were to bring evidence to the hearing to support the Urban Fringe qualifying matter, I am not aware of any provision in the RM-EHS that would afford discretion to consider this matter as a qualifying matter outside of section 771.

6.6 As a result, the only potential justification of the Urban Fringe qualifying matter is if section 77L is satisfied. In summary, that requires a section 32 analysis of the proposed matter and specific consideration of the following:

- (a) Identification of the special characteristics of the proposed qualifying matter that makes the level of development provided by the MDRS inappropriate for the area;
- (b) Justifies why that characteristic makes the level of development inappropriate in light of the national significance of urban development and the objectives of the NPS-UD. I consider that characteristic would also need to be of national significance to outweigh the importance attributed to urban development via the NPS-UD and the RM-EHS; and
- (c) Includes a site-specific analysis that identifies the site to which the matter relates, evaluates the specific characteristics on a site-specific basis and evaluates a range of options to achieve the greatest heights and densities permitted by the MDRS while managing the specific characteristics.

6.7 For the reasons outlined below and having regard to these requirements, I do not consider that the Urban Fringe qualifying matter can be justified as a limitation on MDRS in the district's urban centres. Walkability is not in itself a specific characteristic that can justify a limitation on intensification. Neither are there any other specific characteristics of the relevant four towns that means that the base level of intensification enabled by MDRS should be restricted. The costs of limiting the permitted level of growth outweigh the benefits (in qualitative terms) and the qualifying matter does not give effect to the higher order policy documents.

7. WALKABLE CATCHMENTS REQUIRE CONTEXTUAL ASSESSMENT

7.1 From my observations of Tuakau, Pokeno, Huntly and Ngaruawahia, there is nothing which leads me to a conclusion that intensification opportunities or applying the MDRS outside a 800m radius is of concern. Put another way, as a blanket approach, I cannot identify anything that intrinsically indicates that the use of the MDRS or the provision of intensification opportunities would be inappropriate in resource management terms. It would seem that V3 has conflated the minimum six storey high density apartment opportunities of the NPS-UD (Policy 3) with MDRS. They are in my opinion different in their extent and application.

7.2 In my experience, there is little to directly indicate that having to walk 801m or 1001m to a centre is so inappropriate that it justifies not using the MDRS or implementing the RM-EHS. There is no 'red line' here in the sense of a clear and certain regime of where one form of development is appropriate, and another is inappropriate. The scale of intensification opportunity offered by MDRS is not dissimilar from the opportunities for two and three storey townhouse, duplex and terrace development that I often observe in urban areas, including larger rural towns. While not the predominant form of housing stock, their proportion in respect to new growth is increasing as the market seeks more variety in terms of housing types, lot sizes and affordability. In the rural towns the form of housing whether standalone, duplexes or terraces, is still a suburban form of development. MDRS is still focussed on these housing forms rather than high rise apartments which one would commonly encourage directly adjoining a town centre (although I recognise that low rise apartments could occur).

7.3 Although an 800m distance is a well-known rule of thumb to represent a convenient 10-minute walk, it is not definitive. The Ministry for the Environment has stated that an 800m distance to a transit station entrance should be regarded as a minimum.² For example, it has been established in Auckland that workers frequently walk more than 800m, commonly 1.2km to 1.5km and up to 2km.³ Furthermore, the Ministry for the Environment summarised research in 2018 by Auckland Transport (**AT Research**) as follows (my emphasis added):⁴

*“Research in Auckland of pedestrian trips to train stations (rapid transit stops) showed half of the people surveyed walked further than 800 metres to a train station. Using this information, Auckland Transport suggested a range of sizes for desirable walkable catchments for town and neighbourhood centres and amenities. These ranged from 400 metres (a five- to 10-minute walk), and **1000 metres or a 20-minute walk for town centres and rapid transit stops**, to 1200 metres for intermediate or high schools (Auckland Transport, 2018).*

7.4 I accept that much of the available literature addresses walking distances to public transport. However, I consider there are similarities associated with walking distances to town centres, employment, community facilities and schools, making the AT Research useful in considering the Urban Fringe qualifying matter.

7.5 The AT Research indicates that an acceptable walking distance of 1000m, or up to a 20-minute walk, might be guidance for walking catchments. Adults can comfortably

² Ministry for the Environment, 2020, *Understanding and Implementing Intensification Provisions for the National Policy Statement on Urban Development*, section 5.5, particularly sections 5.5.2.

³ See Auckland Council's *Walkable Catchments Analysis at Auckland Train and Northern Busway Stations – 2013*.

⁴ Ministry for the Environment, 2020, op. cit., p 23.

walk much faster than other pedestrians, between 1.5m/second to 2m/second, allowing them to cover between 900m and 1,200m within 10 minutes.

- 7.6 A two-kilometre distance is also relevant from the point of view that the Waikato Regional Policy Statement (**RPS**), Regional Land Transport Plan, PDP-DV and NPS-UD speak of all transport modes, not just walking. Cycle access, or e-vehicle (e-bike or e-scooter) within all the existing towns would be very convenient given that, at a speed of 15km/h, almost 3km can be covered in 10-minutes.
- 7.7 I consider walking distance, as a restriction to the application of the MDRS and intensification opportunities, to be a broad-brush, crude and inexact measurement. I consider there are too many variables (for example, considering all available active transport modes) and is not an effective or reliable basis for a qualifying matter as outlined in section 77I. I also consider that it does not consider all available destinations, such as schools and employment, and the focus on the trip to retail or services only does not address all the opportunities to support land use and transport integration within the compact and contained four main towns.

8. THE IMPLICATIONS OF IMPLEMENTING THE URBAN FRINGE QUALIFYING MATTER

- 8.1 I consider that implementation of the proposed Urban Fringe qualifying matter in the four identified towns would have significant negative effects in terms of the towns ability to accommodate and enable additional and affordable housing.
- 8.2 The section 32 states that the preferred option (of applying the MDRS only to the proposed MDRZ2) creates a more logical zone pattern and that it is the most effective and efficient way to achieve intensification around the four town centres.⁵
- 8.3 The section 32 also states that this rezoning option will create a compact urban form that provides for connected, liveable communities and that this will achieve Objective UFD-O1 (in the PDP-DV) and give effect to Objective 1 in the NPS-UD.⁶
- 8.4 I disagree with Council's V3's analysis for the following reasons:

Well-functioning urban environments

- 8.5 While a desirable outcome, the achievement of walking distances from houses to centres, is only one component of a well-functioning urban environment (as per Policy 1

⁵ Volume 1, page 66.

⁶ Volume 1, page 66.

of the NPS-UD). A walkable catchment does not define what a well-functioning urban environment is. However, V3 is only defining a walkable catchment relative to main streets in the four town centres, rather than basing it on employment, recreation, public transport, school, community facilities, and the like, which are elements typically distributed throughout a residential community. There are other factors such as land suitability and cost-effective infrastructure, that also contribute towards well-functioning urban environments, along with the provision of employment, servicing and facilities.

8.6 I have read all of the Council's section 42A and decision reports on the rezoning topic for the PDP-DV process. It is clear to me that the extent of residential areas in these four towns (the General Residential Zone in particular), already facilitate the development of compact urban form and well-functioning urban environments by providing appropriate-sized urban footprints through zoning. This zoning has addressed the need to provide for growth in the most efficient way possible which, in this rural district, is through urban towns rather than low density and sprawling large lots and countryside living. I consider that paragraph 64 in Mr Ebenhoh's evidence supports this view.

8.7 From reading all decision reports on the rezoning topic, it is also my view that Council has accepted these urban footprints for all four identified towns on the basis that the land within them has the physical attributes to be effectively and efficiently developed in terms of building scale and intensity, its ability to be serviced with infrastructure, and its ability to integrate with existing urban development.

Misunderstanding accessibility

8.8 Council's rezoning decisions in the PDP-DV already recognise the mobility afforded by a range of other forms of active transport that can be made available to residents. These can often provide much quicker access to town centre locations than walking, including non-motorised transport such as bicycles. In terms of VKT (vehicle kilometres travelled), the General Residential Zone associated with these four towns provides for short distances between dwellings and services. When I compare the distances between the edge of these towns and their town centres, they are small compared to the greater distances per day travelled by residents of the urban areas of Auckland⁷ (and Hamilton). In the Auckland urban context, planning generally aspires to the concept of the '15 or 20-minute city' in respect of travel times to manage the distribution of employment, services and facilities within convenient access of residents. Adopting

⁷ Auckland Regional Transport Model (MSM) provides details on average expected VKT from trips within zones (neighbourhoods) in the Auckland Region. The 50th percentile is 124km travelled per household per day.

a 10-minute walkable, 3-minute cycle, or a 1-minute drivable distance through the Urban Fringe qualifying matter does not reflect this well understood approach. The V3 approach is restrictive given the actual extent of land use and transport integration opportunities that are afforded by already compact and contained town layouts and forms.

- 8.9 The assumption in the section 32 that only 800-metre walkable catchments constitute well-functioning urban environments conflicts with the statement in Mr Ebenhoh's evidence (at paragraph 64) that "*Waikato DC considers that the growth enabled by the PDP-DV zoning created well-functioning urban environments, giving effect to the key objective of the NPS-UD*". The section 32 therefore does not recognise that neighbourhoods and other centres will form outside these catchments which are not reliant on main street for all their needs. Being able to walk, cycle or take a short vehicle trip to school, employment and recreation facilities also support well-functioning urban environments.

Constraining housing supply and typology

- 8.10 The proposal for the MDRS to only apply to a MDRZ2 will effectively constrain the supply of housing within the areas outside of this proposed zone. This effect is significant given that the proposal would result in approximately 80% of residential zoned land within the four towns not having the MDRS apply to it (even when no other qualifying matters apply). Most of the realistic growth opportunities associated with these towns relate to greenfield expansion areas. This includes the areas identified as Pokeno West and Havelock which are outside the 800m walkable distance from Pokeno's main street.
- 8.11 The effects of constraining growth by introducing a MDRZ2 are further exacerbated by provisions in the PDP-DV that limit each residential site within the General Residential Zone to one dwelling as a permitted activity and set a subdivision standard for a minimum lot size of 450m².⁸ Two houses or more are a discretionary activity.⁹ These consenting provisions can act as a disincentive to landowners and developers who may wish to pursue proposals involving more intensive development. Consenting processes involve time, cost and uncertainty of success. Therefore, they can negatively affect intensification rather than enabling a variety of housing opportunities and price points.
- 8.12 In Pokeno, this means that while most of the town's growth opportunities are in the greenfield areas of Pokeno West and Havelock, V3's approach means that they are not

⁸ Land Use – Building Rule GRZ-S2(1)(a) Residential unit and Subdivision Rule SUB-R11(1)(a)(i).

⁹ Land Use – Building Rule GRZ-S2(2).

locations where a variety of housing would be enabled. This is because the default situation would remain with 450m² lots containing single family homes.

Consenting burden and costs and benefits

- 8.13 The section 32 states that this consenting outcome would “*not be impossible*”.¹⁰ I consider that this downplays the difficulties associated with obtaining resource consent for increased housing densities. While I agree that it would not be impossible (because there is no prohibited activity status), this approach is not what I would identify as enabling.
- 8.14 The section 32 includes a statement that it focuses on why limiting the application of the MDRS to the proposed MDRZ2 is appropriate, rather than why its application to the whole of the residential area in the four towns is inappropriate. The reason given for this focus is that it is “*in the interests of clarity*”.¹¹ In my opinion, this does not represent the balanced assessment of costs and benefits that is required by section 32. Neither does it meet the additional threshold of assessment required by section 77L. This approach results in the identified costs of the Urban Fringe qualifying matter being understated.
- 8.15 I consider the section 32 does not adequately address the following benefits that would accrue if the MDRS and a consenting path for four or more dwellings as a restricted discretionary activity were to apply to the extent of land currently zoned General Residential and MDRZ (ie the entire relevant residential area):
- (a) A range of housing opportunities, densities and lot sizes (not just 450m² lots with single houses);
 - (b) A range of house prices that can be provided to the market, including prices which the market would consider affordable. This will support housing for a wider demographic than a monoculture of the same sized houses and lots (which is currently the case in the new residential areas of Pokeno where such minimum lot sizes applied in the Operative District Plan);
 - (c) Residential land can be used more efficiently, allowing opportunities for integrated housing developments rather than lower density vacant fee simple lots;

¹⁰ Section 11.7 page 87, first paragraph.

¹¹ Section 11.1, third paragraph.

- (d) Densities that can be established to facilitate and support the provision of viable local public transport;
- (e) Infrastructure that can be efficiently used;
- (f) Greater residential populations and diversity that can support local economies through commerce and exchange;
- (g) Better management of the on-going pressure to rezone Future Urban Zones and other areas with fewer locational attributes; and
- (h) Increased capacity in the towns and opportunities to direct growth into the towns and away from productive rural land and areas with environmental qualities where countryside living is not desirable.

Changing urban character

- 8.16 One of the reasons stated in the section 32 for not applying the MDRS to the entire residential areas within the four towns is that there could be significant changes to neighbourhood character and amenity which constitute a “*disadvantage*”.¹² In my opinion, this statement suggests that changes in residential densities occur suddenly and within a short period of time, such that existing residents are adversely affected. This is not the case in my experience and, where associated with greenfield land, this change from rural to urban is occurring anyway.
- 8.17 I do not consider this “*disadvantage*” to be a valid reason for not applying the MDRS. Policy 6(b) of the NPS-UD identifies that while changes in planned urban built form, through increased and varied housing densities and types, may detract from amenity values appreciated by some people, but improve amenity values appreciated by other people, communities, and future generations, such changes are not, of themselves, an adverse effect.
- 8.18 In my experience, it takes time for the character of any settlement to change. Provisions for more intensive residential development are opportunities and not requirements. Not all landowners will immediately take up the opportunities to intensify their residential sites and the demographics of settlements and people’s expectations of urban character and amenity will inevitably change as residents come and go. In saying this, I am also confident that if changes in intensity were proposed, the MDRS

¹² Volume 1, page 95.

and relevant matters of discretion and consenting requirements for four or more units would appropriately manage effects on character and amenity.

- 8.19 For these reasons, I do not consider the Urban Fringe qualifying matter will achieve Objective UFD-O1 of the PDP-DV, involving a compact urban form that provides for connected, liveable communities. It will instead limit medium and higher density intensification to inner areas around town centres and the substantial areas outside of these will be effectively left to develop in a form that is considerably less intense and therefore less efficient, less affordable and less able to accommodate a variety of demographics than what would otherwise be achieved by applying the MDRS to the entire residential areas within the four towns.

Relevant objectives and policies in the PDP-DV

- 8.20 I do not consider that the section 32 has adequately addressed other relevant strategic objectives in Part 2 of the PDP-DV. These include Objectives SD-O3 (Growth targets), SD-O4 (Housing variety) and Objective GRZ-O4 (Housing options). I would consider these objectives are better achieved through the deletion of the Urban Fringe qualifying matter and the application of MDRS over the entire residential areas of the four towns. I cover the matter of growth targets below in respect to Change 1 to the RPS.
- 8.21 I also do not agree that these outcomes would achieve proposed objective SD-O14 in V3. A walkable catchment is limited in its geographical extent and the number of properties that have ability to utilise the MDRS are similarly limited. A considerable proportion of these properties are already developed, meaning that the benefits of intensification are unlikely to be quickly achieved. I further evaluate in the section below the issue that the MDRZ2 effectively only replaces the Medium Density Residential Zone of PDP-DV, resulting in little additional capacity.

9. THE SPECIFIC IMPLICATIONS OF THE URBAN FRINGE QUALIFYING MATTER FOR POKENO

- 9.1 Of all the four settlements, the consequences of V3 for Pokeno are the most significant. This is because Pokeno has experienced the most rapid growth rate within the Waikato District over the last decade as a result of rezoning for residential, business and industrial activities.
- 9.2 To demonstrate this rate of change, my evidence on the rezoning topic for Pokeno (Topic 28I) noted annual building consent approvals between 2014 and 2019 of approximately 200 houses per year, with 280 dwellings consented in 2020.

- 9.3 I expect this housing trend for Pokeno to continue with the development of more employment and commercial opportunities, increased stress and land supply constraints within Auckland's housing market, advantages in house and land prices (compared to Auckland, Drury and Pukekohe) and opportunities to further develop rail services between Auckland and Hamilton.
- 9.4 In my opinion, the application of a MDRZ2 to Pokeno, as proposed by V3, would have very little impact in terms of increasing housing supply or alleviating these pressures. This is because its historical residential core is already well established, and the extent of redevelopment here has been very small and gradual (the land is already fragmented into smaller quarter acre sized titles). In this regard, I estimated in 2021 that, at best, there were building consents issued for five to 10 dwellings per year.
- 9.5 The zoning map for Pokeno indicates that V3 proposes to change the zoning of only three properties from the General Residential Zone to the proposed MDRZ2. I understand that these are to be added to the stock of land in the existing Medium Density Residential Zone that is the result of the PDP-DV. In effect, there is practically no change or increase in capacity between the PDP-DV and V3. The only effective change is that the MDRS are proposed to be used in this location, as opposed to the bulk and location standards that apply to the existing Medium Density Residential Zone. My observation is that there is very little effective difference between the framework of provisions for these two zones.
- 9.6 The areas outside the proposed MDRZ2 are either: existing residential areas developed as 450m² sections (through the provisions of the Pokeno Plan Change PC24); or the greenfield areas at Havelock and Pokeno West, which have been rezoned to General Residential Zone as a result of the PDP-DV.
- 9.7 As noted in the section 32, there are restrictive covenants on a very high proportion of the existing sites in Pokeno which place limitations on having more than one storey, the number of dwellings and subsequent subdivision.¹³ These private covenants are associated with the new housing areas developed in the Helenslee, Hitchens and Graham Blocks by Pokeno Village Holdings Limited which effectively mean that land in those locations cannot be further developed with additional houses or further subdivided.
- 9.8 The consequence of these private covenants is that the majority of future growth is to be accommodated within Havelock and Pokeno West. These are the areas which are

¹³ Volume 2, page 82.

currently limited to 450m² lots in terms of the PDP-DV and they are not included in the proposed MDRZ2. The PDP-DV provisions therefore constrain growth in these two residential areas of Pokeno where most opportunity exists to provide a variety of housing sizes, types and price points.

9.9 I cannot agree with the statements made in Mr Ebenhoh's evidence¹⁴ that V3 "*included an "Urban Fringe" qualifying matter to protect the well-functioning urban form provided for in the PDP-DV and to tailor the intensification requirements to achieve the best possible outcome for the district's qualifying towns.*" I do not consider that the well-functioning urban form of Pokeno (or the other three towns) would be achieved by only applying the MDRS to a small walkable distance. I consider that a well-functioning urban environment includes many factors as outlined by Policy 1 of the NPS-UD, all of which could be successfully achieved through applying MDRS to the entire residential area within Pokeno (which includes Havelock and Pokeno West).

10. DOES VARIATION 3 ACHIEVE THE REQUIREMENTS OF, OR GIVE EFFECT TO, RELEVANT HIGHER ORDER DOCUMENTS?

Resource Management Act 1991

10.1 The section 32 states that V3 is consistent with the purpose of the RMA in Part 2 as it "*will promote the sustainable management of the land resource available for residential development to enable people and communities to provide for their social and economic wellbeing*".¹⁵

10.2 In my opinion, V3 will have the reverse outcome, but I do acknowledge that the outcomes would be achieved for the land which is proposed to be located in the proposed MDRZ2, with the exception of Pokeno for the reasons I explained above. The resultant constraints on growth (from not applying the MDRZ2 across all of the residential areas within the four towns) do not allow opportunities for all people and communities to provide for their wellbeing. These opportunities are proposed to be made available to a confined area and therefore the vast majority of landowners and developers are excluded from taking up those opportunities. I do not interpret section 5 to require this type of exclusion.

10.3 The section 32 also states that V3 will assist in the more efficient use of land and infrastructure by providing a greater opportunity for residential development in close

¹⁴ Mr Ebenhoh's statement of evidence, paragraph 9.

¹⁵ Volume 1, page 6.

proximity to the town centres.¹⁶ It therefore considers that it has had particular regard to the matters in section 7.

10.4 In my opinion, V3 has not had sufficient regard to the efficient use of land and infrastructure within the entire residential area of the towns (and particularly the General Residential Zone). This is because approximately 80% of the available residential land would not be able to be developed to an optimum level as anticipated through the use of the MDRS.

10.5 For these reasons, I conclude that V3 fails to provide for the efficient use of urban land and infrastructure outside of the blanket Urban Fringe qualifying matter.

National Policy on Urban Development 2020

10.6 The section 32 states that V3 gives effect to the NPS-UD in that it enables the development of a variety of homes in terms of type, price and location and will assist in providing development capacity to meet expected housing demand.¹⁷ It further states here that Policy 3(d) in the NPS-UD is “*most relevant to Waikato District*”. I agree that Policy 3(d) is particularly relevant to the Waikato District.

10.7 In my opinion, V3 constrains rather than enables urban development. Leaving the PDP-DV provisions to apply to the area outside of the walkable catchments restricts the ability to provide for a variety of housing typologies and affordable options.

10.8 I consider the section 32 has potentially misinterpreted Policy 3(d) in relying on this as the foundation of V3 and the reason to restrict intensification beyond a walkable catchment. My reading of Policy 3(d) is that it requires, or supports, enabling development beyond the MDRS in certain circumstances where building heights and densities of urban form are commensurate with access to public transport the level of commercial activity and community services. In my opinion, Policy 3(d) would provide some support to upzoning Pokeno because the town is an area of high demand for housing and has been since the inception of PC24. The Urban Fringe qualifying matter is not consistent with this part of the policy, while the remainder of the policy relates to urban environments not entirely relevant to the Pokeno context.

10.9 I acknowledge that the zoning that is the result of the PDP-DV does address the requirement of the NPS-UD to provide a sufficient stock of market-feasible land so that it can be developed over a 30-year period. However, the RM-EHS and the MDRS is not just about capacity. It is also intended to provide a variety of housing types and

¹⁶ Volume 1, page 6.

¹⁷ Volume 1, page 9.

price points (affordability) and to provide a much more permissive (enabling) pathway for residential developments (up to three dwellings on a single residential site and four or more dwellings as a restricted discretionary activity). This theme is also part of Policy 1(a)(i) of the NPS-UD which is to enable *a variety of homes that meet the needs, in terms of type, price, and location, of different households.*

- 10.10 In my opinion, the fact that the PDP-DV might already provide sufficient housing capacity for the next 30 years is not the determinative factor as to discount the other benefits that can be achieved by upzoning. I do not consider that it is possible or appropriate for district provisions to over-ride the directions of any higher order document, including the NPS-UD by imposing a singular housing typology/lot size beyond 800m of centres without a valid qualifying matter justification. This is the effect of V3. While a large number of 450m² lots may provide capacity, this does not serve all demographics or provide a variety of price points (in fact, where these are important the PDP-DV may be providing little to no capacity where these are served by a lot size that is not 450m²). I consider that it is important to remove barriers to achieve a full range of positive effects and a more encompassing approach to providing for the community's needs, rather than continuing to apply a limitation of one dwelling on a 450 m² lot. That would help achieve a well-functioning urban environment as defined in Policy 1(a) of the NPS-UD.

Waikato Regional Policy Statement

- 10.11 The section 32 refers to Objective 3.12 and associated policies in Chapter 6 in the RPS, and the recent inclusion of Objective 3.27 in March 2022, which refers to the need to meet the housing bottom lines in the Future Proof area in accordance with the NPS-2020.¹⁸
- 10.12 The operative growth-related objectives and policies of the RPS are now substantially out of date, having been initially prepared over a decade ago before the NPS-UD, NPS-Urban Development Capacity, and the recent growth strategies prepared by Future Proof and the Council. Proposed Change 1 to the RPS provides for the necessary updates.
- 10.13 Notwithstanding this, I have not been able to identify any objective in the RPS or Proposed Change 1, which would support the application of MDRS to just a small walkable catchment. In respect to proposed Change 1, I do note that net target densities of 20-25 dwellings in greenfield locations are sought to be achieved in the four

¹⁸ Volume 1, pages 11-12.

identified towns in terms of Policy UFD-P12. In evaluating these densities, I acknowledge that 450m² sections would achieve approximately 20 dwellings per hectare. However, it is unlikely that this minimum lot size would achieve 25 dwellings per hectare.

10.14 In this sense, the PDP-DV could achieve the minimum acceptable density as proposed by Change 1, but I consider that this would not assist in achieving Objective UFD-O1.12.b which seeks to improve housing choice, quality and affordability.

11. CONCLUSION

11.1 I consider the correct application of RM-EHS would necessitate the deletion of the Urban Fringe qualifying matter. I also consider that it does support the utilisation of MDRS and a consenting path for four or more units over the entire relevant residential area within the four identified towns (unless the qualifying matters in section 77I were to apply to justify the inappropriateness of applying the MDRS).

11.2 Limiting the application of the MDRS to the 800-metre walkable catchments within the four identified towns would result in considerable inefficiencies in terms of the use of all residential land, particularly for greenfield areas.

11.3 This limitation fails to recognise that the zoned urban perimeters of these towns in terms of the PDP-DV represent the footprints within which compact urban form and well-functioning urban environments can be developed. That was the basis of Council's decisions in the PDP-DV. Walkable catchments are a component of, and not a definition of, well-functioning urban environments.

12. RELIEF SOUGHT

12.1 For these reasons, I support the relief sought in the submission by HVL to delete the Urban Fringe qualifying matter. Because of this, additional changes will need to be made to the Proposed District Plan. These changes are contained at Appendix 1 to the submission by HVL and I intend to address the detail of the changes in my evidence for the specific hearing on Variation 3.

Mark Tollemache

1 February