

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

**EVIDENCE OF MARK SEYMOUR MANNERS TOLLEMACHE
ON BEHALF OF HAVELOCK VILLAGE LIMITED [Submitter 105]
FOR SUBSTANTIVE HEARING**

TOWN PLANNING

4 July 2023

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1. EXECUTIVE SUMMARY

- 1.1 My full name is Mark Seymour Manners Tollemache.
- 1.2 I previously presented evidence on the Urban Fringe Qualifying Matter at the Joint High Level Issues Hearing associated with Variation 3 Enabling Housing Intensification (**V3**) to the Proposed Waikato District Plan (**PDP**).
- 1.3 I understand that Council accepts that the Urban Fringe Qualifying Matter as notified failed to meet the relevant statutory tests of section 77I and 77L of the Resource Management Act 1991 (**RMA**). Consequently, the MDRS provisions can apply to the entire extent of the residential zones of the 4 main towns.
- 1.4 In this evidence, I evaluate the Qualifying Matters (QM) that should apply to the Havelock precinct. I note that I am substantially in agreement in the authors of the Section 42A Report in respect to the QM applicable to Havelock, and apart from two amendments to the draft provisions, I agree with the proposed amended V3 provisions specific to Havelock.
- 1.5 Three specific matters associated with the Havelock Precinct are considered relevant to section 77I. These are:
 - (a) Slope Residential Area¹ (section 77I(a) applies).
 - (b) Pokeno Industry Buffer and sensitive land uses² (section 77I(j) considered to apply).
 - (c) Cultural landscape features (hilltops³ and ridgelines) (section 77I(j) considered to apply).
- 1.6 This evidence identifies the characteristics associated with the Havelock Precinct that make it inappropriate to apply the Medium Density Residential Standards (**MDRS**) to specific mapped overlays/areas (ie.

¹ PDP Decisions Version – Rule SUB-R20 in Part 2 Subdivision.

² PDP Decisions Version – Rules SUB-R19 and SUB-R21(1)(a)(v) in Part 2 Subdivision, Rules PREC4-S2 and PREC4-S3 in Part 3 General Residential Zone.

³ PDP Decisions Version – Rule PREC4-S1 in Part 3 General Residential Zone.

these are areas where aspects of MDRS are inappropriate, and the consequential intensification opportunity should be restricted).

- 1.7 I have provided an evaluation of Sections 77I(j) and 77L of the RMA relevant to the proposed QM for Pokeno Industry Buffer and sensitive land uses and cultural landscape features. I conclude that the proposed QMs meet the necessary thresholds in respect to Section 77L.
- 1.8 The proposed amended rules, along with the inclusion of existing rules from the General Residential Zone into the Medium Density Residential Zone 2 (MDRZ2) is considered to be most effective and efficient approach to manage the potential adverse effects associated with the development of the Havelock precinct and the requirement to provide for the identified QM. The QM identified above better manage effects associated with natural hazards, cultural landscape features and reverse sensitivity effects.
- 1.9 I have also evaluated the Council's technical reports associated with the matters of water, wastewater and stormwater. In this respect I note that there is a difference in approaches between the manner in which MDRS can be considered between brownfields (infill) and greenfields situations when it comes to identifying QM or infrastructure limitation that could affect the implementation of MDRS.
- 1.10 Where brownfield or infill development needs to address a plan enabled baseline which could result in considerable development opportunities across many existing lots, greenfields development involves starting from scratch in terms of the development of infrastructure and services. Consequently, as greenfields development requires resource consent, infrastructure and network capacity, upgrades and new infrastructure provisions, along with stormwater attenuation can be assessed, modelled and design based on the relevant development capacity which the zone and development enables. In other words greenfields subdivision requires resource consent, and the relevant discretions can manage the effects of development.
- 1.11 Consequently, I do not consider it is appropriate or necessary to apply QM to water, wastewater and stormwater discharges in greenfields situations. All the relevant infrastructure considerations can be managed

through the consenting process. I do agree that flooding is a relevant QM where there is a high flood risk.

1.12 On the matter of vacant lot sizes, while the Council has conceded this Urban Fringe QM, it now proposes to maintain:

(a) the minimum vacant lot size of 200 m² within the former MDRZ through the spatial extent of the notified MDRZ2; and

(b) 450 m² within the former GRZ through the equivalent spatial extent of the notified Urban Fringe QM (now identified as urban fringe area or 'vacant lot minimum restriction area').

1.13 The effect of this is that, for the purposes of vacant lot subdivision, the equivalent of the Urban Fringe QM is retained and that the subdivision provisions of the PDP are effectively unaltered, regardless of the Resource Management-Enabling Housing Supply (**RM-EHS**) or V3.

1.14 I consider that the implementation of Council's proposed 450m² minimum lot size would have negative effects in terms of the ability to accommodate and enable additional and affordable housing. The potentially negative outcomes resulting from the 450m² standard would be most obvious in Pokeno where most of Waikato District's growth has been realised in the last decade.

1.15 A key issue is that greenfields subdivision is still the predominant form of housing development in the four main towns of the District. It will likely remain as such, and the manner in which greenfields subdivision is designed, unless superlots are proposed for subsequent integrated developments, is the construction of one house on one lot.

1.16 The Operative District Plan's 450m² subdivision standard has resulted in housing typologies that are typically monoculture and with very little diversity. In my opinion, this standard has stymied innovation in housing design and it does not provide the needed flexibility to respond to market demand for a variety of lots sizes and housing typologies.

1.17 I do not consider there is an adequate planning or statutory justification as to why land in a town has a single residential zone (MDRZ2) applied to it, but that two different subdivision standards for lot sizes would apply

(either based on the urban fringe area or the 'vacant lot minimum restriction area'). I disagree with the Council's position that additional residential capacity is unnecessary, that applying lots smaller than 450 m² to the urban fringe area would not result in a well-functioning urban environment, it would disperse development, and it would distract from a focus to the town centre.

- 1.18 I provide a statutory assessment of the matters and consider that it is inappropriate to apply a minimum lot size of 450 m² to the urban fringe area or 'vacant lot minimum restriction area'. In saying this, I also question whether the 200 m² vacant lot size would result in appropriate outcomes. In my experience this lot size is too small for vacant lot subdivision, and a minimum size of 240 m² is more appropriate.

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 Although this is a Council hearing, I confirm 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) Expert conferencing;
- (b) Qualifying matters at Havelock, Pokeno;
- (c) Environmental Protection Area in not a qualifying matter;
- (d) Infrastructure in this case is not a qualifying matter;
- (e) Flooding as a qualifying matter;
- (f) Stormwater as a qualifying matter;
- (g) Minimum lot sizes – 200 m² and 450 m² within the proposed Medium Density Residential Zone 2 (MDRZ2);
- (h) Appropriateness of the 200 m² vacant lot size;
- (i) Proposed District Plan Appeals; and
- (j) Conclusion.

4. EXPERT CONFERENCING

4.1 I participated in the expert conferencing⁴ associated with Havelock QMs and Water/Wastewater⁵ topics.

⁴ 17 May 2023

⁵ 30 May 2023

- 4.2 At the Havelock expert conference I undertook to provide a list of information that has been circulated as part of V3⁶ and the appeals to the PDP⁷, along with confirmation from Mr Styles as to his position on the height restriction within the 40 dba acoustic contour. After the expert conferencing I also received a list of information requests from the planners for other submitters (relating to technical justifications for Qualifying matters (QMs), yields resulting from MDRS, additional assessment regarding infrastructure). Some of the requests only relate to the appeals to the PDP and are not relevant to V3 (and are subject to without prejudice discussions between parties).
- 4.3 Mr Styles has subsequently prepared evidence to address the matter of the 40 dba acoustic contour. Ms Gilbert, who also participated in the Havelock expert conference, has also prepared evidence addressing the proposed cultural landscape features QM and the height standards proposed to apply adjoining those features.
- 4.4 Mr Pitkethley has provided an estimate of the potential yield from Havelock based on MDRS applying to the PDP. Mr Pitkethley has also confirmed that this yield is within the network planning for water and wastewater. Mr Pitkethley has also provided an outline of the approach and engineering standards that would apply to stormwater management from the Havelock Site.
- 4.5 Mr Hills has reviewed Mr Pitkethley's estimate in the context of his previous transportation evidence for the PDP hearings and confirmed through his evidence that the yields are consistent with his previous assessments.
- 4.6 I also has several meetings with Ms Nicola Rykers, planner for Synlait. These addressed matters associated with stormwater, along with the reverse sensitivity QMs and other matters relevant only to the appeals to the PDP.

⁶ These being a draft for discussion paper dated 21 April titled 'Havelock precinct – Initial Section 77I and 77L assessment and a draft for discussion paper dated 16 May 2023 titled 'Environmental Protection Area.

⁷ These being documents from Buddle Findlay to Council, and circulated by Council to the appellants and s274 parties on 19 April 2023. It is also understood that Council has distributed to parties Ms Gilbert's landscape advice on the appeals.

5. QUALIFYING MATTERS AT HAVELOCK, POKENO

Introduction – Havelock and the Havelock Precinct

- 5.1 The Havelock Site was rezoned from rural to urban and the Havelock Precinct was included within the PDP through the hearings process. HVL sought rezoning on the basis of a comprehensive package of zone and precinct provisions, including provisions that were specific to the Havelock site. This package was supported by evidence addressing acoustics, air quality, lighting nuisance, reserve sensitivity, infrastructure and stormwater, geotechnical investigations, landscape and visual impacts, urban design, ecology, demographics/economics, and planning. Technical analysis provided with the submission also included heritage/archaeology and contamination.
- 5.2 The Havelock Site, as included within the PDP has the following key features:
- (a) Provides for approximately 500 houses (based on the estimate of Mr Pitkethley relating to MDRS opportunities) in a high quality designed neighbourhood, contiguous with the existing Pokeno settlement. Given the topography, it offers residential sites with high amenity, views and vistas not currently accessible in Pokeno.
 - (b) Has direct access to the town centre and key transport routes without being severed by the state highway.
 - (c) Offers the only opportunity for future connections between Pokeno and the Waikato River not relying on SH1.
 - (d) Contributes to Council meeting its residential supply targets under the NPS-UD in respect of Pokeno and to creating a well-functioning urban environment.
 - (e) Implements part of the Council's growth management strategy for Pokeno, as outlined in Waikato 2070. Havelock is expressly identified as a growth cell within Waikato 2070 and it is also identified in Future Proof 2022.

- 5.3 Havelock is an ideal location for growth in Pokeno in respect of the following matters:
- (a) It is located in an area of high growth.
 - (b) Pokeno is already experiencing dwelling construction rates that exceed the earlier medium and high projections of the District and Regional Councils.
 - (c) It provides a logical extension of the existing urban area of Pokeno, forming a new neighbourhood contiguous with existing and planned growth.
 - (d) It is able to deliver a compact urban form and it supports the existing town.
 - (e) It is well connected to Pokeno and can support walking and cycling connections to the town.
 - (f) It provides opportunities for open spaces and the protection and enhancement of Significant Natural Areas (SNA).
- 5.4 Havelock is included within the Council's planned upgrades for bulk water and wastewater. HVL will provide all necessary connections to the infrastructure.
- 5.5 During the PDP hearings process, adjoining landowners⁸ raised concerns with potential reverse sensitivity effects between residential development on the subject site and the adjoining Pokeno Gateway Business Park. HVL's acoustic specialist, Mr Styles, modelled an appropriate separation distance associated with managing reverse sensitivity from the adjoining Synlait, Hynds and Yashili activities in the adjoining Pokeno Gateway Business Park. The outcome of the modelling is the Pokeno Industry Buffer overlay in the PDP. This buffer also addresses reverse sensitivity associated with lighting, odour and dust which at the time of the PDP hearing were addressed with specialist evidence. Mr Styles' evidence for V3 provides additional information on this matter.

⁸ Synlait and Hynds.

5.6 The Havelock Precinct and its zoning reflect a detailed approach to addressing issues of reverse sensitivity, streams and wetlands, ecological features, cultural landscape features and the topography of the site. The provisions work in concert, and the different elements are integrated into a precinct. Elements of the Precinct Plan and PDP provisions include:

- (a) The Pokeno Industry Buffer.
- (b) 40 dba noise contour.
- (c) Slope Residential overlay.
- (d) Significant Natural Area overlay.
- (e) Environmental Protection Area (EPA) overlay (which is also a district-wide provision).
- (f) Hilltop Park overlay.
- (g) Indicative Road overlay including direct road connection from Pokeno to Bluff Road

Qualifying Matters - Havelock

5.7 For the Havelock expert conferencing I prepared a paper⁹ on a suite of potential QMs. I attended the expert conferencing and on completion of the conferencing my views remain the same. The evidence below provides a full analysis of my consideration of the QMs associated with Havelock.

5.8 Three specific matters associated with the Havelock Site are considered relevant to section 77I. These are:

- (a) Slope Residential Area¹⁰ (section 77I(a) applies).
- (b) Pokeno Industry Buffer and sensitive land uses¹¹ (section 77I(j) considered to apply).

⁹ Draft for discussion paper dated 21 April titled 'Havelock precinct – Initial Section 77I and 77L assessment.

¹⁰ PDP Decisions Version – Rule SUB-R20 in Part 2 Subdivision.

¹¹ PDP Decisions Version – Rules SUB-R19 and SUB-R21(1)(a)(v) in Part 2 Subdivision, Rules PREC4-S2 and PREC4-S3 in Part 3 General Residential Zone.

(c) Cultural Landscape features (hilltops¹² and ridgelines)
(section 77I(j) considered to apply).

- 5.9 A map of the Havelock Precinct with proposed QMs is **attached** to my evidence.
- 5.10 The approach for V3 is to identify the characteristics associated with the Havelock Precinct that make it inappropriate to apply MDRS to specific mapped overlays/areas (ie. these are areas where aspects of MDRS are inappropriate, and the consequential intensification opportunity should be restricted).
- 5.11 The Havelock Precinct Plan (in the PDP) reflects recommendations to establish areas for enhancement, areas where development is limited/restricted and areas where protection should apply (for example the SNAs). It was developed to provide a comprehensive response to site context and opportunities.
- 5.12 I consider that key aspects of this precinct approach / integrated design should not be compromised by full implementation of the MDRS, particularly as they relate to the management of site specific sensitivities. As a result, it has proposed a number of Precinct/site-specific qualifying matters for Havelock, pursuant to sections 77I and 77L of the RMA. These are in addition to qualifying matters that Council may identify in V3 on a district-wide basis or for Pokeno itself, including restrictions relating to SNAs.

Slope Residential Area

- 5.13 The overlay of the Slope Residential Area is specific to the Havelock Site and is considered to relate to sections 77I(a) and 6(h) of the RMA (*‘the management of significant risks from natural hazards’*).
- 5.14 In the PDP hearing, evidence was prepared by Mr Shane Lander (geotechnical engineer) on behalf of HVL identifying where high risk stability areas exist within the Havelock Site. The areas identified as ‘Zone C’ (high risk) in that evidence correspond to the Slope Residential Areas identified in the Site. Rule SUB-R20 manages this issue through

¹² PDP Decisions Version – Rule PREC4-S1 in Part 3 General Residential Zone.

a subdivision standard that requires lots to have a minimum area of 2,500 m².

5.15 I agree with the Section 42A Report that the standards for the Slope Residential Area would require amendments to:

(a) Limit development to one dwelling per lot.

(b) Limit building coverage to the equivalent provisions of the GRZ.

5.16 I consider this approach is appropriate and relates to a matter of national importance that decisions makers are required to recognise and provide for under section 6(h) of the RMA. Consequently, I do not consider that further evaluation is required in respect to either sections 77I(j) or 77L of the RMA.

5.17 I support the Section 42A Report's suggested wording (Appendix 2 page 22) for Rules PREC4-SX (Residential unit within the Slope Residential Area) and PREC4-SX (Building coverage within the Slope Residential Area). These are new provisions, which relate to the QM, and I am comfortable with the proposed rule.

Pokeno Industry Buffer

5.18 Variation 3 already contains an existing qualifying matter entitled Reverse Sensitivity which is applied to the Pokeno Industry Buffer. The Council's section 32 Report¹³ identifies that this is a qualifying matter under section 77I(j) and provides an assessment of why section 77L is satisfied. That Report outlines the purpose of the qualifying matter, in general terms, as follows:

Residential activities are sensitive to effects arising from other activities such as noise, odour, dust vibration and lighting. Facilities such as Heavy industry have the potential to create effects which cannot be controlled within the boundary of the site. Enabling residential activities in close proximity to existing facilities is likely to result in reverse sensitivity effects.

5.19 I support the identification of the Pokeno Industry Buffer as the method to address the reverse sensitivity QM to manage incompatibility between

¹³ Section 32 Report – Volume 2 Qualifying Matters – September 2022 – Pages 96 – 101.

residential and industrial activities and in light of the following factors (in respect to sections 77I(j) and 77L of the RMA):

- (a) The existing plan provisions for the area to the west of the Pokeno industry zones requires residential buildings to be located outside the mapped Pokeno Industry Buffer. This is to ensure an appropriate level of amenity for new residents in Havelock. The Pokeno Industry Buffer also manages other potential reverse sensitivity considerations such as light spill and glare, air quality and provides a separation distance between the industrial and residential activities. This is a specific characteristic that is considered to meet Section 77L(a) of the RMA.
- (b) The extent of Pokeno Industry Buffer is based on the acoustic modelling and evidence by Mr Styles for HVL at the PDP hearings. Within the Pokeno Industry Buffer, if residential development was to occur there is the potential for any resident to be exposed to unacceptable levels of noise, and consequently also for reverse sensitivity effects that could curtail the operation of activities within the adjoining General and Heavy Industry Zones. The Pokeno Industry Buffer seeks to avoid this. This is a specific characteristic that justifies the level of development enabled by MDRS as being inappropriate, consistent with Section 77L(b) of the RMA.
- (c) The Pokeno Industry Buffer is a mapped overlay in the PDP. It relates to rules (SUB-R19 and PREC4-S2) which make noise-sensitive activities non-complying within the Pokeno Industry Buffer. In this sense, the section 32AA evaluation associated with the PDP hearings identified that residential development is inappropriate within the Pokeno Industry Buffer.
- (d) In respect to Section 77L(c) of the RMA, it is considered that no range of densities or heights of buildings are appropriate in the Pokeno Industry Buffer in light of the elevated noise environment. There are no alternatives that would address the matter of reverse sensitivity while providing for MDRS or a range of MDRS outcomes.

- (e) The evidence of Mr Styles for Variation 3 confirms how the Pokeno Industry Buffer was identified and how it will be effective to protect amenity of future residents and address potential reverse sensitivity.
 - (f) Consequently, the level of development provided for by V3 / MDRS is inappropriate in the Pokeno Industry Buffer.
- 5.20 I agree with the Section 42A Report that SUB-R19 and PREC4-S2 are appropriate restrictions to MDRS.
- 5.21 I support the Section 42A Report's suggested wording (Appendix 2 page 23) for Rule PREC4-SX (Building setback - sensitive land use within PREC4 – Havelock precinct). This reflects the existing rule in the PDP, relocated from the GRZ to the MDRZ2.

Sensitive land uses

- 5.22 For the area between the 40 dba acoustic contour illustrated on the Havelock Precinct Plan and the Pokeno Industry Buffer, buildings that are to accommodate noise-sensitive activities are required to be designed with acoustic attenuation measures (Rule PREC4-S3). It is proposed to retain this control, regardless of MDRS, because the acoustic attenuation requirement itself does not have an effect on the implementation of MDRS.
- 5.23 The acoustic attenuation measures associated with new dwellings (or any other noise-sensitive activities) protect the residents from adverse health impacts, ensures residential amenity and will also prevent potential reverse sensitivity effects arising for existing industrial activities.
- 5.24 Based on the evidence of Mr Styles, it is proposed to restrict the height of buildings within the 40 dba acoustic contour to 8m (two storeys) which is consistent with the modelling prepared by Mr Styles and the height limit within the GRZ. This will ensure the same noise outcome for residents, as presented at the PDP hearing and will maintain the effectiveness of the reverse sensitivity approach outside of the Pokeno Industry Buffer, irrespective of any additional density associated with MDRS.

5.25 The method to address the reverse sensitivity QM in this context is proposed to be a limitation of building height of 8m (two storeys). In respect to sections 77L(j) and 77L of the RMA:

- (a) The Pokeno Industry Buffer and the 40 dba acoustic contour are mapped elements of the Precinct Plan in the PDP. They relate to a specific relationship between the potential noise promulgated from the adjoining General and Heavy Industry Zones. As above, it is this characteristic that is considered to meet Section 77L(a) of the RMA.
- (b) The matter of the national significance of urban development in this circumstance indicates that, as per the section 32AA associated with the PDP hearing process, that this land is capable of residential development and intensification opportunities, however its capacity is limited to two stories in height as outlined by Mr Styles so that any third storey of a dwelling is not exposed to unacceptable levels of noise.
- (c) Mr Styles' evidence confirms that the basis of the approach to managing reverse sensitivity in the Precinct was supported by modelling which resulted in the specific approach to development based on the Pokeno Industry Buffer and the 40 dba acoustic contour. The additional height opportunity available in MDRS alters the nature of the receiving environment (three storey rather than 2 storey). Mr Styles supports an approach of restricting building height within the 40 dba acoustic contour to 8m to maintain the overall approach to managing reverse sensitivity. It is considered appropriate to restrict the height of buildings in this context as it relates to an integrated approach to managing reverse sensitivity.
- (d) I consider this additional restriction meets Section 77L(c) of the RMA, but I would acknowledge that the standard for height restriction, in my opinion, just makes the threshold, when compared with the imperatives of Section 77L(b) of the RMA. The approach of the 40 dba acoustic contour and Rule PREC4-S3 is to apply acoustic attenuation to buildings. These are outside of the Pokeno Industry Buffer (where residential

development is to be avoided). The matter of height relates to the original assumptions underpinning Mr Styles modelling, which relates ultimately to the combination of the Pokeno Industry Buffer and Rule PREC4-S3 in addressing reverse sensitivity as a package. This acknowledges that the matter of reverse sensitivity is not necessarily just resolved by the Pokeno Industry Buffer, but it also works in combination with the design approach to the Precinct itself in terms of the layout of features and Rule PREC4-S3.

- (e) The option to limit density within the 40 dba acoustic contour is not considered necessary, as the matter relates to attenuation and the height of buildings with the promulgation of sound. I do not consider that residential development needs to be avoided within the 40 dba acoustic contour, its rather how it is managed from a building design sense. Therefore, I consider a reasonable approach would be the recommendation of Mr Styles to limit height to 8m (two storey) to maintain the overall approach to managing reverse sensitivity effects within the Site. This would not affect the yield of development as it would still provide for the same density opportunity, however it would limit for example opportunities for three storeys. In the context of Pokeno I am not too concerned about the loss of the third storey here because there are opportunities for intensification based on MDRS in other parts of Havelock, Pokeno West and the existing areas around the town centre for that dwelling typology.

5.26 I recommend a specific rule which restricts the height of buildings within the 40 dba acoustic contour to 8m. I propose the following amendment within Rule PREC4-S3 which Council proposes to relocate to PREC4-SX. Note that the exclusion for the height restriction area adjoining the Pokeno Industry Buffer is to reflect that this control requires a building to have a height of 5m and to avoid any conflict or confusion between those rules. As is acknowledged in the evidence of Mr Styles and Ms Gilbert, there is an overlap between the proposed height restriction area and the 40 dba acoustic contour.

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| PREC4-SX | Building design – sensitive land use with PREC4 – Havelock precinct |
| <p>(3) Activity status: PER Where:</p> <p><u>(a) A building or structure with a maximum height not exceeding 8m, measured from the natural ground level immediately below that part of the structure, where it is located outside the Pōkeno Industry Buffer and the 'Height Restriction Area' (Rule PREC4-SX) but within the 40 dB L_{Aeq} noise contour shown on the planning maps</u></p> <p>(b) Any new building or alteration to an existing building for a sensitive land use located outside the Pōkeno Industry Buffer but within the 40 dB L_{Aeq} noise contour shown on the planning maps that is designed and constructed so that internal noise levels do not exceed 25 dB L_{Aeq} in all habitable rooms.</p> <p>(c) Provided that if compliance with clause (b) 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:</p> <p>(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.</p> <p>(ii) Includes either of the following for all habitable rooms on each level of a dwelling:</p> <p>(1) Mechanical cooling installed; or</p> <p>(2) A volume of outdoor air supply to all habitable rooms with an outdoor air supply rate of no less than:</p> <p>(a) 6 air changes per hour for rooms with less than 30% of the façade area glazed;</p> <p>(b) 15 air changes per hour for rooms with greater than 30% of the façade area glazed;</p> <p>(c) 3 air changes per hour for rooms with facades only facing south (between 120 degrees and 240 degrees) or where the glazing in the</p> | <p>(4) Activity status where compliance not achieved: DIS</p> |

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| <p style="text-align: center;">façade is not subject to any direct sunlight.</p> <p>(iii) Provides relief for equivalent volumes of spill air.</p> <p>(iv) All is certified by a suitably qualified and experienced person.</p> | |
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Cultural Landscape features (hilltops and ridgelines) and associated height controls

- 5.27 Evidence at the PDP hearings from Ngati Te Ata and Ngati Tamaoho noted that the Site has a number of cultural landscape values associated with the hilltops and ridgelines.
- 5.28 Rule PREC4-S1 of the PDP restricts buildings to 5m in height (one storey) where they are located within 50m of the mapped hilltop parks (these being on the Precinct Plan). This was a provision which was included in the PDP through the HVL evidence.
- 5.29 It is proposed that this height restriction is maintained, notwithstanding MDRS, as part of an integrated approach to address these cultural landscape values – so that these prominent features can be reflected in the subdivision and development design outcomes. This can be achieved, in part, through the layout of subdivision and development based on the Precinct Plan, and as reflected in Rule PREC4-S1 through the height of buildings in proximity to these features.
- 5.30 These cultural landscape values are taken to reflect the historic use by mana whenua of the hilltops and ridgelines. The exact locations have not been identified for Te Wheoro’s signal station¹⁴ and hikoi trails associated with access to the Waikato River and the pā that adjoin the river. Within the site there are no known archaeological sites except the route of a former road from Hitchen Road to the Waikato River. However, it is understood that mana whenua strongly suspect that Te Wheoro’s signal station was either of the hilltops and that trials ran along the ridgelines.

¹⁴ Archaeological research by Clough Associates indicates that during the European invasion of the Waikato a signal station will be built on a hilltop to communicate between the European forces arrayed in Pokeno and those on the Waikato River.

- 5.31 The Havelock Precinct in the PDP identifies the hilltop parks, indicating that these should be free of development and likely to be available public access as part of a reserve network. The discretions for the Precinct rules address this.
- 5.32 Ms Gilbert (expert landscape architect for HVL) has mapped the hilltops and key ridgelines within Havelock and identified the key roles they play in the landscape context. On the basis of her evidence I consider it is appropriate to restrict the height of buildings associated with residential development within 50m of the hilltop parks (as already exists with Rule PREC4-S1), ridgelines and the Pokeno Industry Buffer (proposed to be mapped as a Height Restriction Overlay).
- 5.33 This is because a lower building height is considered to more appropriately address and relate to these cultural landscape features and the visibility of these features from Pokeno town centre itself. It recognises that lower building heights are more appropriate to this site's context than the MDRS's 11m height (three storeys). This reflects a fine grained approach to the Precinct design and planning, which is considered appropriate to retain.
- 5.34 The method to address the cultural landscape features in this context is proposed to be a limitation of building height of 5m (one storey). In respect to sections 77I(j) and 77L of the RMA:
- (a) Cultural landscape features are considered to be a QM.
 - (b) The Pokeno Industry Buffer and hilltop parks are mapped elements of the Precinct Plan in the PDP. The ridgeline exists as a topographical feature (particularly between the two hilltop parks) and has been mapped by Ms Gilbert.
 - (c) In the PDP these ridgelines are identified as General Rural Zone, being located above RL100. The land above RL100 is zoned rural in the Decisions Version of the PDP. Variation 3 cannot apply to land above RL100 that is zone rural. The proposed height restriction recognises the wider Havelock site contains a cultural landscape feature that also affects the existing extent of land zoned residential in Havelock.

- (d) The matter of the national significance of urban development in this circumstance indicates that, as per the section 32AA associated with the PDP hearing process, that this land is capable of residential development and intensification opportunities, however its capacity is to absorb building height in proximity to these features is reduced.
- (e) In meeting the requirements of Sections 77L(b) and 77L(c) of the RMA I am cognisant that the provisions see to ensure that the greatest heights are achieved. I also acknowledge that cultural landscape features rely on the expression of values by iwi, and I do not purport to offer a view on those values. I note that for this Site the situation is more complex as the zoning in the Operative District Plan is Aggregate Extraction and Processing Zone (which is potentially the antithesis of recognising and providing for relationship of mana whenua and their culture and traditions with their ancestral lands). However, I consider that the approach to the Precinct planning is robust in considering a range of matters.
- (f) The option to limit density within proximity to the cultural landscape features is not considered necessary, as the characteristic of the site (to use the language in section 77L(a)) relate to the visibility and prominence of the features. Responding to this characteristic can be achieved through a combination of subdivision design, landscaping with subdivision and the management of building height. I do not consider that residential development needs to be avoided in proximity to the cultural landscape features, its rather how it is managed. Indeed, I understand that such an outcome would be beyond the scope of Variation 3. Therefore, I consider a reasonable approach would be to implement the recommendation of Ms Gilbert to limit height to 5m (one storey) to maintain the overall approach to managing the relationship of development to these features. This would not affect the yield of development as it would still provide for the same density opportunity, however it would limit for example opportunities for 2 or 3 storeys. There are opportunities for intensification based on MDRS in other parts of Havelock.

- 5.35 I support the Section 42A Report's suggested wording (Appendix 2 page 22) for Rule PREC4-SX (Height – building or structures adjoining Hilltop parks within PREC4-Havelock precinct). This reflects the existing rule in the PDP, relocated from the GRZ to the MDRZ2.
- 5.36 In principle I support the Section 42A Report's suggested wording (Appendix 2 page 23) for Rules PREC4-SX (Height – Havelock Industry buffer height restriction area). Ms Gilbert has also recommended the height restriction area applies to a small area of land located within 50m of a ridgeline. This would also be a height restriction area. Instead of drafting an additional rule as the height restriction area can be mapped on the Precinct Plan, rule PREC4-SX could be amended to only reference the height restriction area so that it would apply where is mapped. The suggested amendments, so that the control applies to both the land adjoining the Pokeno Industry Buffer and within 50m of a ridgeline are:

PREC4-SX - Height – ~~_Havelock industry buffer~~ height restriction area

*(a) A building or structure with a maximum height not exceeding 5m, measured from the natural ground level, where it is located within the Havelock ~~industry buffer~~ height restriction area **identified on the Havelock precinct plan in APP14 – Havelock precinct plan.***

- 5.37 I recommend that the height restriction area be mapped on the Precinct Plan.

Conclusion

- 5.38 This approach is considered to be most effective and efficient as it manages the potential adverse effects associated with the development of the precinct and provides for QM. The QM identified above better manage effects associated with natural hazards, cultural landscape features and reverse sensitivity effects.

6. ENVIRONMENTAL PROTECTION AREA IS NOT A QUALIFYING MATTER

6.1 I prepared a paper¹⁵ on the EPA for the Havelock expert conferencing. My views on whether the EPA is a QM remain unchanged. I do not consider the EPA to be a QM in respect to sections 77I(j) and 77L of the RMA.

6.2 The EPA is identified in the maps as a 'specific control – multi-zone'. The relevant rules in the PDP include:

- (a) GRZ-S23 - building setback of 3m from an EPA (All GRZ, not just Havelock).
- (b) GRZ-R25 - subdivision of land containing an EPA, relevant matters include proposed planting and management plan (All GRZ, not just Havelock).
- (c) SUB-R21 and SUB-R62 – for Havelock Precinct only, addressing planting, management, weed and pest control, implementation, ownership and legal mechanisms for the EPA.

6.3 The EPA is a planting rule which includes measures for ongoing management and protection of the planted vegetation. The EPA in Havelock was developed as part of the comprehensive master planning of the site and outlined in evidence through the PDP hearing process. The EPA in Havelock serves multiple purposes depending on where it is located on the site. These include:

- (a) Planting the riparian margins of streams (the stream itself being the QM).
- (b) Providing a purpose and use for the land covered by the Pokeno Industry Buffer (the Pokeno Industry Buffer being the reverse sensitivity QM).
- (c) To expand the area of the SNA in 5 Hitchen Road where this land is steep, inaccessible, and geotechnically difficult to develop (the SNA and the steep land / natural hazard being the QMs).

¹⁵ Draft for discussion paper dated 16 May 2023 titled 'Environmental Protection Area.

- (d) To provide a use of land for the geotechnically difficult land on the eastern boundary (the steep land / natural hazard being the QM). The geotechnically difficult land was identified in the evidence of Mr Lander at the PDP hearings.
- (e) Being part of the overall ecological enhancement of the site, as recommended by Dr Graham Ussher at the PDP hearings to connect areas of native vegetation (for example planting the riparian margins of streams and expanding the area of SNA).

6.4 The EPA is a planting requirement identified in the PDP to provide other benefits (ecology, screening) but is not a QM per se. It provides a use for the Pokeno Industry Buffer land, but that Buffer is identified as a QM in its own right.

6.5 The EPA in the land known as 'Area 1' was added by the Hearings Panel. It was not supported by any PDP evidence from HVL (in particular regarding reverse sensitivity) and its imposition has been appealed by HVL. I do not support the imposition of the EPA in Area 1 as a qualifying matter.

7. INFRASTRUCTURE IN THIS CASE IS NOT A QUALIFYING MATTER

7.1 I have reviewed the Council's approach to water and wastewater and agree that this infrastructure does not need to be identified as a QM. Mr Pitkethley outlines the planning that has been undertaken by Council in respect to infrastructure provision in Pokeno and for the Site.

7.2 I note at the outset that there is a difference in approaches between the manner in which MDRS can be considered between brownfields (infill) and greenfields situations when it comes to identifying QM or infrastructure limitation that could affect the implementation of MDRS.

7.3 In brownfields situations, the cumulative effect of the permitted baseline of MDRS (3 houses per existing site) can result in a network which does not have the capacity to accommodate growth because it was designed and built based on different density outcomes and engineering standards. In small towns, I acknowledge that this issue can be acute, as it can be for older suburbs in cities that lack modern engineering, infrastructure or available network capacity. With MDRS allowing for

three houses as a permitted activity, there is no means within the resource management framework to manage these effects, and this can place considerable stress on infrastructure, councils and communities to resolve.

7.4 Greenfields development is different. Usually there is a large parent lot, for example Havelock has a site of approximately 80 ha. The permitted baseline is far less relevant as that parent site only has a baseline of three dwellings. In a greenfields situation, all subdivision requires resource consent and infrastructure is a relevant matter of discretion. In addition, through MDRS, 4 or more units would also require a resource consent. As part of these applications, as is common practice, I would expect an assessment of network capacity, necessary infrastructure upgrades and the provisions of new infrastructure to serve the proposed subdivision or development. I do not consider that the MDRS result in an approach where the effects of subdivision and development on infrastructure need to also be addressed through a QM as the relevant discretions to consider these matters are already contained in the PDP.

7.5 If MDRS results in increased subdivision or development opportunities within a greenfields situation, then the engineering needs to reflect that in terms of the assessments, provision of new infrastructure, or the upgrading of existing infrastructure. The manner in which subdivision can address this would be case by case, however given that new roads, water and wastewater reticulation/connections and utility connections are required, these can be designed based on the actual or potential yield of the subdivision. This is common practice, and even where the subdivision facilitates future opportunities for intensification, these matters can be addressed at the time of subdivision. An example of this is that it is common for superlots to be established to support subsequent integrated applications for subdivision and land use, and the engineering for the superlot is designed to anticipate the final yield for the integrated development, even though at the time of subdivision only a single superlot can be proposed.

7.6 I therefore agree with the Council's proposed approach to not include any Qualifying Matters related to infrastructure and instead manage those issues through other regulatory methods.

7.7 I also note that Mr Hills confirms that in respect to transportation matters the potential development enabled by MDRS at Havelock is within the assessment of trip generation and effects on the roading network provided at the PDP hearing. The same approach as to infrastructure applies above in that any subdivision or development would need to address the effects of that proposal on the road network. I note that in the case of Havelock, specific Precinct transport discretions¹⁶ require assessments of the road network (and particularly intersections) with a resource consent application. These are in addition to the district-wide requirements of the PDP. In this respect, even if there are unexpected limitations in the roading network through development within the rest of Pokeno, these can be assessed and addressed through the subdivision application process in the normal manner.

7.8 Consequently, I do not consider that QMs are required for matters associated with wastewater, water or transportation. Even if QMs were justified in brownfield areas because of existing capacity limitation, I would see that as a different matter to greenfields where infrastructure is required to be built from scratch to meet Council's engineering standards (and anticipated development where MDRS applies).

8. FLOODING AS A QUALIFYING MATTER

8.1 I agree with the Council's approach to identifying high risk flood hazards as a QM. The Council has undertaken mapping to differentiate the types of flooding within the 4 main towns (based on risk), and this approach is useful in identifying the flood-prone areas where it is inappropriate to apply MDRS.

8.2 The approach to high risk flood hazards is considered to relate to sections 77I(a) and 6(h) of the RMA (*'the management of significant risks from natural hazards'*).

9. STORMWATER AS A QUALIFYING MATTER

9.1 Similar to the matters addressed above in respect to infrastructure, I consider there is a difference between the approaches to limitations associated with reticulation for stormwater networks or existing

¹⁶ PDP Decisions Version – PREC4 – discretions (1)(h) to (l)

treatment or detention infrastructure. For example, some areas in Pokeno were developed based on impervious rules different to those which would be enabled by the PDP and MDRS. This means that additional impervious surfaces which could occur in brownfields areas could be beyond the designed capacity of those networks, therefore generating the potential for cumulative adverse effects on the network from development enabled by MDRS.

9.2 In these situations I am aligned with Council as to the potential for MDRS to generate outcomes that the infrastructure was not designed to accommodate. With an approach to an enabling permitted baseline for building coverage, impervious surfaces and 3 dwellings per site, without a QM for stormwater, there are no means for the Council to manage this except through the building consent process or bylaws (which may have limited utility).

9.3 As outlined by Mr Pitkethley, there is a difference again between greenfields and brownfields approaches to stormwater. The same approach as outlined earlier in this evidence applies, in that greenfields subdivision needs to apply engineering standards as outlined by Mr Pitkethley to address the attenuation of stormwater, along with its treatment. This means that appropriate assessment and designs, including acknowledging any downstream network limitations or flooding need to be provided with the application in order to manage the effects of new impervious surfaces. The calculations that underpin this engineering would need to address the extent of impervious surfaces enabled by the PDP and MDRS. Mr Pitkethley has outlined how that process would occur in terms of engineering modelling and design. Therefore I consider there is no need to apply a QM for stormwater to greenfields sites as the matter of stormwater design can be addressed through the resource consent process. The permitted baseline has little relevance to the development of the land (i.e., everything needs subdivision consent and the matters of discretion for stormwater are well established).

9.4 I also consider that the issue of minimum vacant lot sizes in greenfields sites has little relevance to stormwater as the calculations that the engineers provide at resource consent is based on the actual and

potential area of impervious surfaces, regardless of the lot yield. I agree with Mr Pitkethley's advice.

9.5 This situation for greenfields is different from the cumulative effects of development in brownfields where I would agree with Council that limitations on the network can create a justification for a QM.

10. MINIMUM LOT SIZES - 200 M2 AND 450 M2 LOT SIZES WITHIN THE MDRZ2

Introduction

10.1 I understand that Council accepts that the Urban Fringe QM as notified failed to meet the relevant statutory tests. Consequently, the MDRS provisions can apply to the entire extent of the residential zones of the four main towns. As part of Variation 3 (V3), Council has applied the MDRS within the proposed MDRZ2 which is a new zone that is to effectively replace the Medium Density Residential Zone (MDRZ) and General Residential Zone (GRZ) – which are the main residential zones included in the Proposed Waikato District Plan – Decision Version (PDP).

10.2 While the Council has conceded this Urban Fringe matter, it now proposes to maintain:

- (a) The minimum vacant lot size of 200 m² within the former MDRZ through the spatial extent of the notified MDRZ2; and
- (b) 450 m² within the former GRZ through the equivalent spatial extent of the notified Urban Fringe QM (now identified as urban fringe area or 'vacant lot minimum restriction area').

10.3 The effect of this is that, for the purposes of vacant lot subdivision, the equivalent of the Urban Fringe QM is retained and that the subdivision provisions of the PDP are effectively unaltered, regardless of the RM-EHS or V3. I do not consider there is an adequate planning or statutory justification as to why land in a town has a single residential zone (MDRZ2) applied to it, but that two different subdivision standards for lot sizes would apply (either based on the urban fringe area or the 'vacant lot minimum restriction area'). If any distinction is to be made, it should be between greenfield and brownfield areas, as I discuss below.

10.4 I previously prepared evidence for the strategic hearing on how the Urban Fringe QM did not implement the RM-EHS, nor the other relevant statutory matters. The Council at the time, as outlined by the evidence of Mr Ebenhoh's evidence and the section 32 for V3, argued that the reasons for the Urban Fringe QM were that additional residential capacity was unnecessary, that applying MDRS to the urban fringe area would not result in a well-functioning urban environment, it would disperse development, and it would distract from a focus to the town centre. I note that the Council's Section 42A Report¹⁷ for this hearing has utilised the same rationale to now support an 'urban fringe area/vacant lot minimum restriction area' where vacant lot subdivision is restricted to 450 m² lots.

Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021

10.5 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. This includes removing barriers, such as resource consent processes, so that the required housing capacity over a 30-year time period (aligning with the directives of the NPS-UD) can be more effectively realised.

10.6 Council's proposal to retain the minimum 450m² lot size of the GRZ does not achieve the outcomes anticipated by the EHS-RMS. It does not provide for a more efficient use of residential land compared to the existing GRZ, and it does not provide flexibility for landowners to respond to different market demands for various housing typologies. It therefore constrains rather than enables growth that is anticipated by the RM-EHS.

10.7 On the basis that there is no rationale for Council's 'Urban Fringe' as a qualifying matter, I consider that it must then follow that there is no basis to apply a subdivision framework that effectively mirrors Council's rationale for an Urban Fringe QM. In other words, it is not appropriate

¹⁷ Paragraphs 109 – 113.

that Council would support lot sizes less than 450m² (and down to 200m²), but only if they are within an 800-metre walkable catchment. I note that the Council evidence implies that the minimum lot size of 450m² may also be based on concerns about stormwater effects from intensive development. I address that later in my evidence.

The implications of implementing Council's proposed minimum 450 m2 lot size

10.8 I consider that the implementation of Council's proposed 450m² minimum lot size would have negative effects in terms of the ability to accommodate and enable additional and affordable housing. The potentially negative outcomes resulting from the 450m² standard would be most obvious in Pokeno where most of Waikato District's growth has been realised in the last decade.

10.9 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. The majority of these were all on a minimum lot size of 450 m². I expect this growth 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.

10.10 In my opinion, the use of the proposed minimum lot sizes would not assist to increase the housing supply or alleviating these pressures. This is particularly relevant to Pokeno because its historical residential core is already well established, and the extent of redevelopment here has been very small and gradual. In this regard, I estimated in 2021 that, at best, there were 5 to 10 building consents for dwellings issued per year for land within the existing MDRZ (being within 800m of the town centre).

10.11 The key issue is that greenfields subdivision is still the predominant form of housing development in the 4 main towns of the District. It will likely remain as such, and the manner in which greenfields subdivision is

designed, unless superlots are proposed for subsequent integrated developments, is the construction of one house on one lot.

10.12 The Operative District Plan's 450m² subdivision standard has resulted in housing typologies that are typically monoculture and with very little diversity. In my opinion, this standard has stymied innovation in housing design and it does not provide the needed flexibility to respond to market demand for a variety of lots sizes and housing typologies. This flexibility is necessary to allow people to respond to their differing affordable housing needs. I acknowledge that MDRS (and its inclusion to the MDRZ2) can provide for flexibility, however in the context of greenfields development this may have more limited application compared to the underlying role of vacant lot subdivision.

10.13 One of the hallmarks of greenfields, compared to infill growth, is that housing is typically planned by the land developer based on one house per lot (with the installation of the vehicle crossing, water and wastewater connection, utilities). These elements are usually installed based on the housing yield planned for the site as the land developer, unless requested or planned (for example with superlots intended to integrated developments), and does not establish redundancy in the network based on 'plan enabled' opportunities for three houses per lot. For example, there is a finite capacity of the planned pipe networks, the transformer capacity for the electricity network, and even the fibre connections to the network routers built in the subdivision – one cannot infinitely add extra connections to these. This leads to a subdivision first approach, and most usually an approach of either providing superlots for planned integrated residential developments or providing lots that are focussed on providing for a single house. Lot sizes are usually smaller than the typical parent lot for an infill development because they already reflect an optimisation of density.

10.14 This type of subdivision pattern can be observed in the greenfield areas of Helenslee, and the Hitchen and Graham Blocks, where growth has typically involved single family homes within a lot size of 450m². This is typical of many greenfield areas, although notably in Auckland and Hamilton there are also trends towards large scale integrated residential developments. This has yet to occur in the four main towns of the

District. Infill usually involves the removal of a house and the redevelopment of new housing. However, this occurs in a less planned manner so network capacity is not something that a land developer resolves as they would for a greenfields scenario. Instead, it is typically a matter of first in first served if there is available network and utility capacity before upgrades to the network are required.

- 10.15 The areas identified as urban fringe area 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. These areas are currently located in a General Residential Zone in terms of the PDP. As noted in the section 32, there are restrictive covenants on a very high proportion of the existing sites in the Helenslee, Hitchens and Graham Blocks of Pokeno which place limitations on having more than one storey, the number of dwellings and subsequent subdivision.¹⁸
- 10.16 The consequence of these private covenants is that the majority of future growth in Pokeno is likely to be accommodated within Havelock and Pokeno West. These are the areas which are currently limited to 450m² vacant lots in terms of the PDP and now by the proposal in the section 42A report for Variation 3. Unfortunately, the 450 m² lot rule does not provide for the variety of lot sizes, or the flexibility in housing opportunities as compared to the land use approach of MDRS. I have concerns with this, as the Council should be utilising a range of planning tools to achieve housing variety and affordability.
- 10.17 Growth in the four main towns has been achieved predominantly by greenfields development based on single houses on vacant lot subdivision. While the potential for integrated developments using MDRS is likely to increase, locking the vacant lot subdivision pattern into the same form that has existed for the last decade does not, in my opinion, reflect the intention of EHS-RMS to address core issues of housing provision.

¹⁸ Volume 2, page 82.

10.18 Finally, based on current information, I consider that imposing a 200m² or a 450m² minimum lot size¹⁹ means that the PDP will be less enabling than the MDRS and, in particular, Clause 7 of Schedule 3A. I understand that legal submissions for HVL will address this matter. As a result, this minimum lot size needs to meet the relevant statutory tests as a qualifying matter or a related matter. Based on the current information available I do not consider that the Council has undertaken the necessary analysis to show that this minimum lot size is justified.

11. DOES A 450 M2 LOT SIZE ACHIEVE THE REQUIREMENTS OF, OR GIVE EFFECT TO, RELEVANT HIGHER ORDER DOCUMENTS?

Resource Management Act 1991

11.1 In the event, that the proposed 200 / 450m² minimum lot sizes for vacant lots do not need to be justified as qualifying matters they still need to show that they are the most appropriate provisions and meet the other relevant statutory tests for rules.

11.2 The 450 m² lot size rule, based on the urban fringe area, is a constraint to growth. It contrasts with the 200 m² lot rule, proposed in the same zone. It looks to be based on the former walking catchment philosophy of V3 (based on the Urban Fringe QM). The outcome is that this subdivision approach is not able to provide the same variety of housing opportunities in the key growth areas that the four main towns. These are opportunities that the PDP and relevant growth strategies are relying on to produce the volume of housing opportunities needed to support growth and market demand.

11.3 The resultant constraints on growth from applying two different minimum lot sizes 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 in the four main towns are excluded from taking up those opportunities through the vacant lot subdivision route.

¹⁹ There are exceptions to the minimum lot size contained in proposed Rule SUB-R154, as contained in the section 42A Report.

- 11.4 In my opinion, the Section 42A Report has not had sufficient regard to the efficient use of land and infrastructure within the entire residential area of the towns (and particularly the urban fringe area). This is because approximately 80% of the available residential land would not be able to be developed to an optimum level utilising the same subdivision rules which are proposed to apply within 800m of the town centre. The proposal to introduce two different minimum lot sizes, in addition to retaining the status quo minimum lot size of 450m², further restricts development opportunities for residential growth and is therefore disabling rather than enabling.
- 11.5 I consider having a single vacant fee simple lot size is more efficient and effective and is a more appropriate provision than the proposed two standards. If MDRS is to apply to all the residential zoned land (in terms of no density controls and enabling bulk and location standards), then I consider there is little apparent reason why subdivision standards cannot be consistent across the same land.
- 11.6 With reference to the Section 42A Report and the Council's stormwater technical memo, I do not consider that minimum vacant lot sizes of 450 m² are necessary in greenfields to manage the effects of impervious surfaces in respect to stormwater discharges.
- 11.7 Greenfields subdivision needs to apply engineering standards as outlined by Mr Pitkethley to address the attenuation of stormwater, along with its treatment. This means that appropriate assessment and designs, including acknowledging any downstream network limitations or flooding need to be provided with the application in order to manage the effects of new impervious surfaces. Mr Pitkethley has outlined how that process would occur in terms of engineering modelling and design.
- 11.8 Therefore, I consider there is no need to either have a QM for stormwater for greenfields sites or to utilise a minimum lot size based on stormwater considerations (distinct from the Flooding QM I have addressed previously). I do not consider that stormwater discharges are a justification for 'vacant lot minimum restriction area'. The matter of stormwater design, particularly in greenfields, can be addressed through the resource consent process, and this will apply whether the minimum lot size is 200 m² or 450 m². The issue of stormwater ultimately relates

to impervious surfaces, which can be managed through these engineering calculations to determine the required attenuation based on lots ranging from 200 m² to 450 m² or larger.

- 11.9 In saying this, if in recently developed residential areas (for example Helenslee, Hitchen and Grahams Block) there was a network constraint with the sizing of reticulated infrastructure and detention devices when I would support the maintenance of a 450 minimum lot size in those areas.

National Policy on Urban Development 2020 (NPS-UD)

- 11.10 The Section 42A Report utilises language similar to the rationale to justify the Urban Fringe QM in section 32. The Section 42A Report states:

In addition to these reasons, it is my view that applying a 200m² vacant lot size throughout the residential zone in the small towns in the Waikato District does not promote a well-functioning urban environment. It will disperse development and not focus it on areas closer to the town centre. In this regard I am relying on the evidence of Ms Susan Fairgray. For these reasons, I recommend retaining the 450m² minimum lot size requirement in the previous urban fringe area. In order to achieve this I have recommended an overlay entitled 'vacant lot minimum restriction area'. I consider this is not a QM, as it does not amend a MDRS. I consider this approach provides for 3 residential units per lot and is a significant change from the notified variation. And as explained in the evidence of Ms. Fairgray Variation 3 does provide for a range of housing options.

- 11.11 While a desirable outcome, the achievement of walking distances from houses, is only one component of a well-functioning urban environment (as per Policy 1 of the NPS-UD). A walkable catchment does not define what is a well-functioning urban environment. However, the 'vacant lot minimum restriction area' is defining its extent by the notified V3 walkable catchment philosophy relative to the town centre in the four town centres, rather than basing it on the full range of relevant factors like 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. Council's urban fringe area/ vacant lot minimum restriction area does not recognise these matters in reference to a well-functioning urban environment.

- 11.12 I have read all of the Council's Section 42A Report and decision reports on the rezoning topic for the PDP process. It is clear to me that the extent of residential areas in these four towns already facilitate the development of compact urban form and well-functioning urban environments by providing appropriate-sized urban footprints through the extent of 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 lot and countryside living.
- 11.13 From reading all decision reports on the rezoning topic in the PDP, 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.
- 11.14 The 'vacant lot minimum restriction area' will effectively constrain the supply of a variety of housing. This effect is significant given that the proposal would result in approximately 80% of residential zoned land within the four towns not having a more permissive vacant lot size apply (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. V3's approach means these are not locations where a variety of housing would be enabled through subdivision standards in the same manner as that land where the 200 m² minimum lot size applies. This could result in a default situation to 450m² lots containing single family homes.

11.15 I consider a single minimum lot size approach to vacant subdivision gives effect to the NPS-UD because:

- (a) A greater range of housing opportunities, densities and lot sizes would result (not just 450 m² lots with single houses).
- (b) A range of resulting house/lot prices can be provided to the market, including affordable housing. 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 and 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.
- (d) Densities can be established to facilitate and support the provision of viable local public transport.
- (e) Infrastructure can be efficiently used.
- (f) Greater residential populations and diversity can support local economies through commerce and exchange.
- (g) Better management can be achieved in respect to the on-going pressure to rezone Future Urban Zones and other areas with fewer locational attributes.
- (h) Increased capacity in the towns can be achieved and opportunities to direct growth into the towns can be realised, away from productive rural land and areas with environmental qualities where countryside living is not desirable.

11.16 I acknowledge that the zoning that is the result of the PDP 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 EM-RHS and the MDRS is not just about capacity. It is also intended to provide a variety of housing types and price points (affordability) and to provide a much more permissive (enabling) pathway for residential developments. Subdivision provisions need to

work in tandem with enabling approaches to land use provisions and they all need to be sufficiently flexible and enabling in order to deliver the outcomes that are sought by higher order documents.

11.17 In my opinion therefore, the fact that the PDP might already provide sufficient housing capacity for the next 30 years is not entirely relevant and is certainly not determinative. While a large number of 450 m² 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 may be providing little to no capacity where these are served by a lot size that is not 450 m²). I consider that it is important to remove barriers to achieve a full range of positive effects and a more encompassing approach is needed to provide for the community's needs, rather than continuing to apply a limitation for 450 m² lots.

11.18 I consider applying a single lot subdivision standard across the full extent of the relevant residential areas is better at giving effect to the NPS-UD, as opposed to variable lot sizes that are based on Council's walkable catchment philosophy.

Waikato Regional Policy Statement

11.19 I have not been able to identify any objective in the RPS or proposed Change 1 which would support the application of two subdivision standards in the residential areas. 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 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.

11.20 In this sense, the 450 m² lot size 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.

Objectives and Policies of the Proposed District Plan

- 11.21 I do not consider Council's proposed 'vacant lot minimum restriction area' will be better at achieving Objective UFD-O1 of the PDP - involving a compact urban form that provides for connected, liveable communities. It will instead limit opportunities for subdivision to provide a variety of lot sizes to inner areas around town centres and the substantial areas outside of these will be effectively left to develop in a form (ie vacant subdivision was the dominant consenting approach) 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 a single vacant lot size to the entire residential areas within the four towns.
- 11.22 I do not consider that the Section 42A Report has adequately addressed other relevant strategic objectives in Part 2 of the PDP. 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 applying a single approach to vacant lot sizes throughout the entire residential areas of the four towns.
- 11.23 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 the ability to utilise the 200 m² lot size is similarly limited. A considerable proportion of these properties are already developed, meaning that the benefits of intensification are unlikely to be quickly achieved.

12. APPROPRIATENESS OF THE 200 M² VACANT LOT SIZE

- 12.1 I do have concerns with the proposed 200 m² vacant lot size. I have extensive experience in developing plan changes and subdivision applications associated with greenfields subdivision areas, where the issue of the appropriate size of a vacant lot is of key concern to the pattern of development which results, particularly how these will be developed with houses that contribute to an appropriate urban form, amenity and streetscape.

- 12.2 From my experience, there is a technical basis to achieve subdivision patterns that support efficient communities and provide for an appropriate lot size to support a permitted activity dwelling. There is also a case that where lot sizes are so small, appropriate urban form is best pursued through a land use/architecture approach first, potentially in the form of an integrated development with the architectural design being integrated with the final subdivision.
- 12.3 In my experience, key attributes of vacant lots are:
- (a) Shape factor and having a depth 2.5 to 3 times the width of the lot. This allows the opportunity to develop private outdoor living spaces in the rear of the lot. These lots also form an appropriate urban block structure.
 - (b) Lot width that accommodates a vehicle crossing in a manner which ensures that this is a small proportion of the lot's road frontage, thereby maintaining the function, amenity and safety of the street/footpath.
 - (c) Lot width which ensures that habitable rooms can front the street and, where a garage is established, this is in proportion to the lot width and not at the detriment of habitable rooms fronting the street.
- 12.4 I have generally identified that vacant lot subdivision requires lot sizes of 240 to 260 m² based on a 10m wide frontage. This gives a lot depth of 24 to 26m, which is suitable to allow lots to be established in a standard urban block form which ultimately results in the ability to create connected road networks.
- 12.5 I have applied the above approaches in Auckland to areas accommodating a large portion of greenfields growth including Hingaia 1 Precinct (V1 - 1600 houses), Flat Bush C Precinct (V7 – 2000 houses), Drury 1 Precinct (V15 and PC6 – 2600 houses) and in Hamilton in Rotokauri North (PC7 – 1400 houses).
- 12.6 Consequently, I find it challenging when considering the urban form and design outcomes which could result from 200 m² lots. These would either be so narrow as to result in elements such as garages and

crossings dominating the street, or so shallow in their depth as to result in outdoor living spaces being located in the front yard as opposed to in the rear yard where they are private.

- 12.7 I consider 200 m² as a vacant lot to be too small. I have extensive experience in plan changes and subdividing minimum lot sizes above 240 m² and am comfortable that these lot sizes can achieve better outcomes in terms of design and amenity than smaller lot sizes, with those only being considered through a subdivision process and without an integrated land use process. I do recognise that there is a difference between the form of vacant lots that apply to greenfield situations and those that apply to brownfields infill. I generally consider lot sizes below 240 m² are best led by an architectural design, with the subdivision integrating with that (and not the other way round such that the architecture is forced to conform to a lot's dimensions).
- 12.8 Consequently, while I consider that a single minimum lot size should apply to the MDRZ2 (and the wider residential areas), I am of the opinion that this should be larger than is currently proposed by V3 for the MDRZ2. This does not alter the main point of this evidence regarding a consistent approach to vacant lot subdivision, however it does highlight that the 200 m² lot size, if inappropriately managed, would likely result in unintended adverse effects on streetscapes and amenity, along with the internal amenity of lots of residents.
- 12.9 I acknowledge that there may be scope constraints about imposing a minimum lot of 240-260m² through Variation 3 if there are no submissions seeking this and if it results in rules that are more restrictive than the PDP. My views on the minimum lots size reflect my expert opinion based on previous experience. This also addresses the Section 42A Report concerns about the appropriateness of the subdivision outcomes of 200 m² lots throughout the four main towns. On this basis I would concede that a two tier approach to subdivision could be appropriate, maintaining 200 m² within the 800m walkable distance to the town centre as proposed and supported by Council and 260 m² lots in the equivalent of the 'vacant lot minimum restriction area'. While this may not be ideal, it could represent a reasonable approach to moving

the issue forward in that greater flexibility and enabling provisions are applied to the areas currently limited to 450 m² lots.

- 12.10 I acknowledge that this is the Council's variation and it can propose the lot sizes subject to those lot sizes being tested through submissions and hearing. However, it would seem that a range of effects are identified as to why lots less than 450 m² are inappropriate in the 'vacant lot minimum restriction area'. Yet these same effects are discounted within 800m of the town centre. These potential concerns could also be resolved with amendments to the minimum lot size rule itself as I would agree that some of these criticisms are warranted in respect to a lot size of 200 m². I note I have the same concerns regarding 200 m² lot sizes in the areas surrounding the town centres where this lot size is proposed to apply through the MDRZ2.

13. PROPOSED DISTRICT PLAN APPEALS

- 13.1 Two appeals relate to the Site. These are by Hynds Pipe Systems Ltd and HVL itself. The Hynds appeal seeks the removal of the Havelock Precinct and the residential zone from the Site. The effect would be that the site is entirely rural. The HVL appeals seek the removal of the EPA from Area 1 and the provision of a residential zone above RL100 (zoned General Rural Zone in the decisions version).
- 13.2 These matters are to be addressed through the Environment Court's process and cannot be addressed through V3. Similarly existing PDP provisions that do not relate to residential standards cannot be addressed in Variation 3.
- 13.3 As a result, the following matters can not be addressed in Variation 3:
- (a) Zoning of land above RL100;
 - (b) Whether the land below RL100 should be zoned as residential or rural; and
 - (c) Havelock specific Subdivision rules:
 - (i) Rule SUB-R19;
 - (ii) Rule SUB-R21.

- 13.4 As signalled in HVL's earlier hearings appearance to the extent that is possible the parties are working through that appeals process with an eye on the integration of V3 and any resolution of the appeals for Havelock.
- 13.5 The matters that can be addressed by V3 relate to the decisions version of the PDP, and in particular matters that intersect with MDRS or the consideration of QM (as outlined in this evidence and the Section 42A Report). These include:
- (a) Rule SUB-R20.
 - (b) PREC4-S1.
 - (c) PREC4-S2.
 - (d) PREC4-S3.
 - (e) Havelock Precinct Plan.
- 13.6 I have not included rule references relating to the Rural Lifestyle Zone (Rules SUB-R62 and SUB-R69) as they do not relate to a residential zone.

14. CONCLUSION

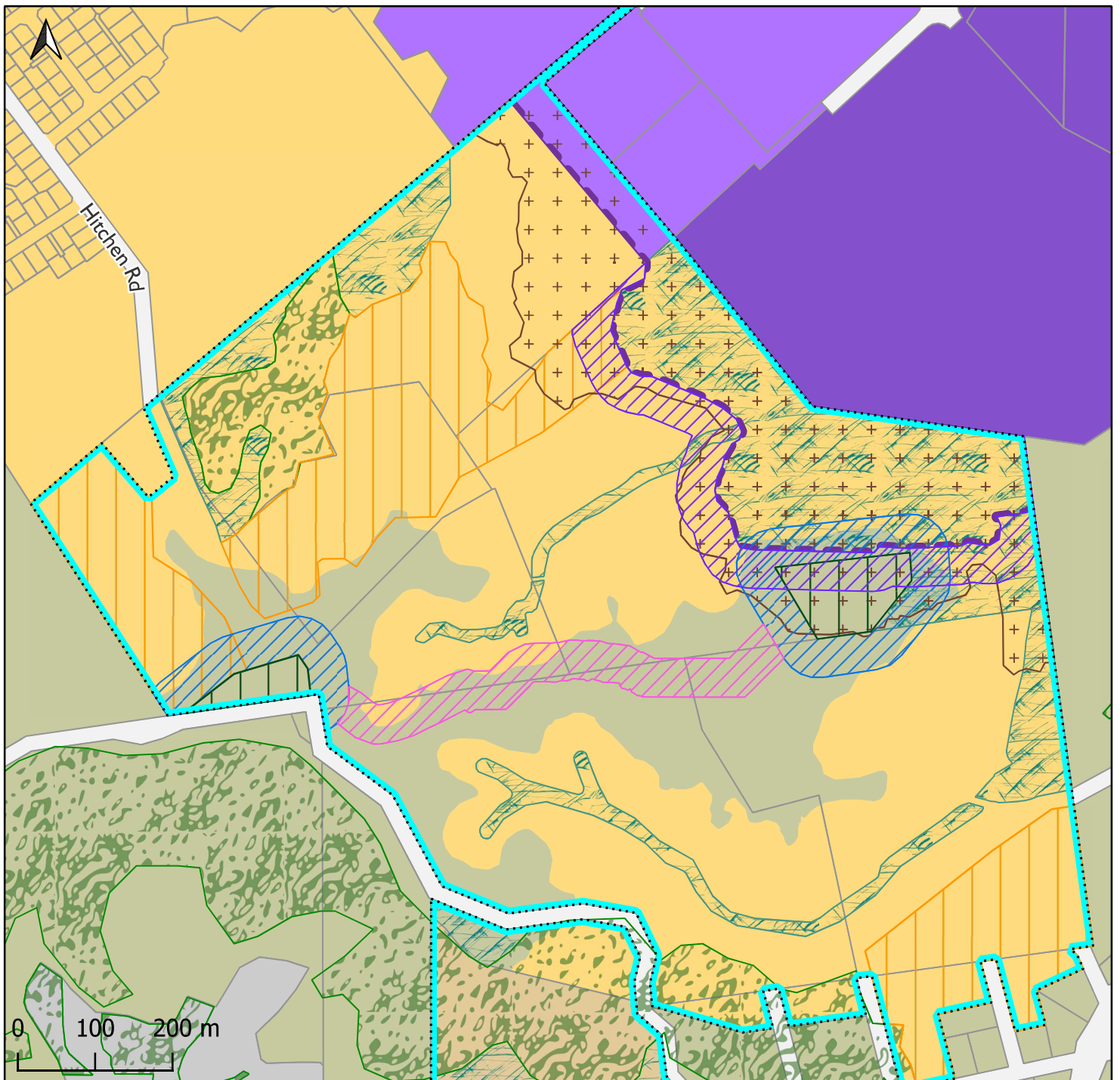
- 14.1 I conclude that three specific matters associated with the Site are considered relevant to section 77I of the RMA. These are:
- (a) Slope Residential Area (section 77I(a) applies).
 - (b) Pokeno Industry Buffer and sensitive land use^s (section 77I(j) considered to apply).
 - (c) Cultural landscape features (hilltops and ridgelines) (section 77I(j) considered to apply).
- 14.2 I have provided an evaluation of the matters in Sections 77I(j) and 77L of the RMA relevant to the proposed QM that do not relate to the remainder of the section 77I matters. I conclude that the proposed QMs do meet the necessary thresholds in respect to Section 77L. The proposed amended rules, along with the inclusion of existing rules from the General Residential Zone into the Medium Density Residential Zone 2

(MDRZ2) is considered to be most effective and efficient approach to manage the potential adverse effects associated with the development of the Site and the requirement to provide for the identified QM.



















- 14.3 I do not consider it is appropriate or necessary to apply QM to water, wastewater and stormwater discharges in greenfields situations. All the relevant infrastructure considerations can be managed through the consenting process.
- 14.4 I do agree that flooding is a relevant QM where there is a high flood risk.
- 14.5 On the matter of vacant lot sizes I do not consider there is an adequate planning or statutory justification as to why land in a town has a single residential zone (MDRZ2) applied to it, but that two different subdivision standards for lot sizes would apply (either based on the urban fringe area or the 'vacant lot minimum restriction area'). I disagree with the Council's position that additional residential capacity is unnecessary, that applying lots smaller than 450 m² to the urban fringe area would not result in a well-functioning urban environment, it would disperse development, and it would distract from a focus to the town centre.
- 14.6 I consider it is inappropriate to apply a minimum lot size of 450 m² to the urban fringe area. I consider using a smaller vacant lot size is better at achieving the purpose of the RM-EHS and giving effect to the objectives of the NPS-UD and RPS (including those in Change 1). In saying this, I also question whether the 200 m² vacant lot size would result in appropriate outcomes. In my experience this lot size is too small for vacant lot subdivision, and a minimum size of 240 m² is more appropriate.

Mark Tollemache

4 July 2023



Legend

- | | |
|---|--|
|  Havelock Precinct |  Environmental protection area |
|  Havelock ridgeline height restriction area | Zones |
|  Havelock hilltop park height restriction area |  GRUZ – General rural zone |
|  Havelock industry buffer height restriction area |  RLZ – Rural lifestyle zone |
|  Havelock hilltop park |  MRZ2 - Medium density residential zone 2 |
|  Havelock industry buffer |  HIZ – Heavy industrial zone |
|  Havelock slope residential area |  GIZ – General industrial zone |
|  Havelock 40 dB LAeq noise contour |  Road |
|  Significant Natural Area |  TTVZ - TaTa Valley zone |
| |  Parcel boundary |

Note: Zone and precinct are subject to PDP appeals and may change