11 September 2024

Statement supporting Submission #677970924

In the matter of the Hamilton City Council's Proposed Plan Change 12 at a Hearing of submissions on 12 September 2024 by the Independent Hearing Panel, whose authority is as outlined in Direction #1 by the Panel on 19 August 2022.

Introduction

My name is Alan Grainer. Thank you for the opportunity to make a Statement supporting my Submission to Council on this matter.

I am speaking at this Hearing as a private citizen, which in the language of the Submission form I completed, is "a person representing a relevant aspect of the public interest". As a homeowner in Hamilton/Kirikiriroa, and resident at 92 Awatere Avenue, Beerescourt for 14 years, I have standing on the relevant aspect of public interest I wish to speak on.

Submission #677970924 was made in my name in 2022 and was directly supported by one other submitter, William Douglas. Since then, several more local residents have become aware of the full implications of Proposed Plan Change 12 for our area and have contributed to the content of this Statement.

Principal matter of business today

My original submission covered several components of the Proposed Plan Change 12 and linked with other submitters, whose requests were in general alignment to my own thinking, including three related to our geographic part of the city. In the interests of achieving a good outcome from this whole planning process, I want to focus specifically on our Request to the Panel.

The original Submission form asked what decision we seek from Council. This was it:

What decision do you seek from Council on the whole or part of the original submission?

Give precise details. Sample - I seek that the whole (or part [describe part] of the submission be either : Allowed/Disallowed.

I seek that the area along the historic riverbank in Beerescourt be designated General Residential not Medium Density - this includes all of Awatere Ave, Ann Street, and Beerescourt Road itself.

Since making the submission, we have undertaken research on this matter, which has strengthened the resolve of our community to make a clear Request of the Panel.

Requests to the Panel

Direction #1 from the Panel explains its status and authority. I note the Panel has been established to hear and consider submissions on Plan Change 12, which is an Intensification Planning Instrument (IPI).

At 1.6 of the document the Panel's responsibility and scope are outlined:

> The Hearing Panel is required to make recommendations on the IPIs to the Councils, after it has heard the submissions, on whether to accept or reject the submissions received and any amendments to the provisions of the IPIs in accordance with clauses 99 and 100 of Schedule 1 of the RMA. Unlike the "standard" plan change process, the Hearing Panel is not limited in making its recommendations by the scope of submissions made (as per clause 99(2)(b) of Schedule 1 of the RMA.

So, my primary formal Request to the Panel is for you to **Accept** the following statement in my Submission, **and include it in your recommendations to the Hamilton City Council:**

I seek that the area along the historic riverbank in Beerescourt be designated General Residential not Medium Density - this includes all of Awatere Ave, Ann Street, and Beerescourt Road itself.

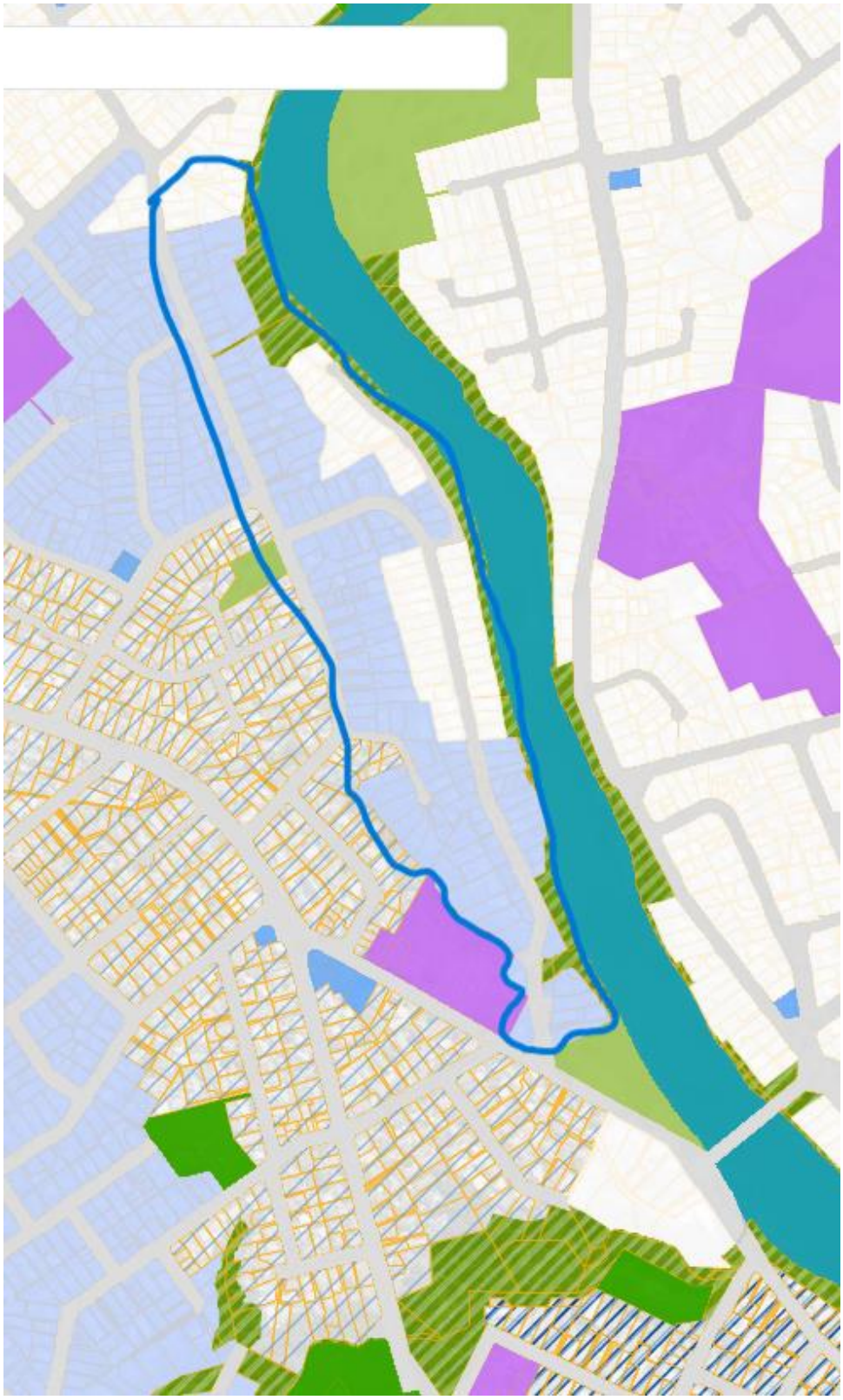
In case this particular part of Hamilton is not as familiar to you, the Commissioners, a more elaborated and definitive statement than the original one would be:

We request the following area, currently proposed to be Medium Density Residential in parts, be entirely zoned as General Residential: from Milne Park in the south, running along the course of the Waikato River northwards, parallel to Awatere Avenue, then along Ann Street through to Minchin Crescent; then back round along Beerescourt Road (the River side at least) up to, and including, Galbraith Avenue, and across the gully to the back of the Oceania Awatere Village complex to the southern end of Awatere Avenue.

Because a picture is sometimes easier to follow than a written description, a marked up map extract is provided on the next page.

Area requested to be designated General Residential only

The extract is from the Hamilton City Operative District Plan Map with the PC 12 Zones Map Layers applied, at Map - Hamilton City Operative District Plan (isoplan.co.nz).



Why is this important?

The significance of the Waikato River cannot be over-stated. Much has been written, spoken, and sung about this regional treasure for centuries. Here we will refer to key documents and experiences to explain why it is important to Accept this Submission.

Proposed Plan Change 12

Jumping directly to Plan Change 12, the status of the Waikato River is articulated strongly by Dr Mark Nairn Davey, the City Planning Unit Manager in his Statement of Evidence to this Hearing process, dated 20 December 2022. On Page 3 he introduces....

"the unique higher-order planning frameworks which exist in the Waikato and Hamilton, namely Te Ture Whaimana o Te Awa o Waikato (the Vision and Strategy for the Waikato River) (TTW). I will outline the implications this higher-order planning instrument has as a 'qualifying matter' on carrying out residential intensification under HSAA."

He went on to say (Page 4) *"a territorial authority may make the Medium Density Residential Standards (MDRS) and the relevant requirements under policy 3 of the NPS:UD (HSAA intensification requirements) less enabling of development in order to accommodate as a qualifying matter, in this case, matters required to give effect to TTW (TTW qualifying matter). To give effect to TTW, adverse effects of development on, or associated with, three waters must be appropriately managed."*

In planning legislative terms, TTW is said to be second only to the Resource Management Act 1991 in the planning hierarchy, and has precedence over National Policy Statements, in this case the one which triggered Plan Change 12. So, the planning legislative basis for our Request is established as a matter of principle, in line with that for Plan Change 12 itself.

You may consider this position to be a necessary but not sufficient basis on which to Accept our Submission Request. Moving on then, Dr Davey elaborates on this 'higher order planning instrument' (TTW) starting on page 27 that *"any new policies seeking to give effect to TTW must demonstrate "betterment" for the river – which means restoration and protection."* He provides an extract of the TTW objectives, which sets a very high bar for any development to meet, concluding at Point 80 on Page 29 that

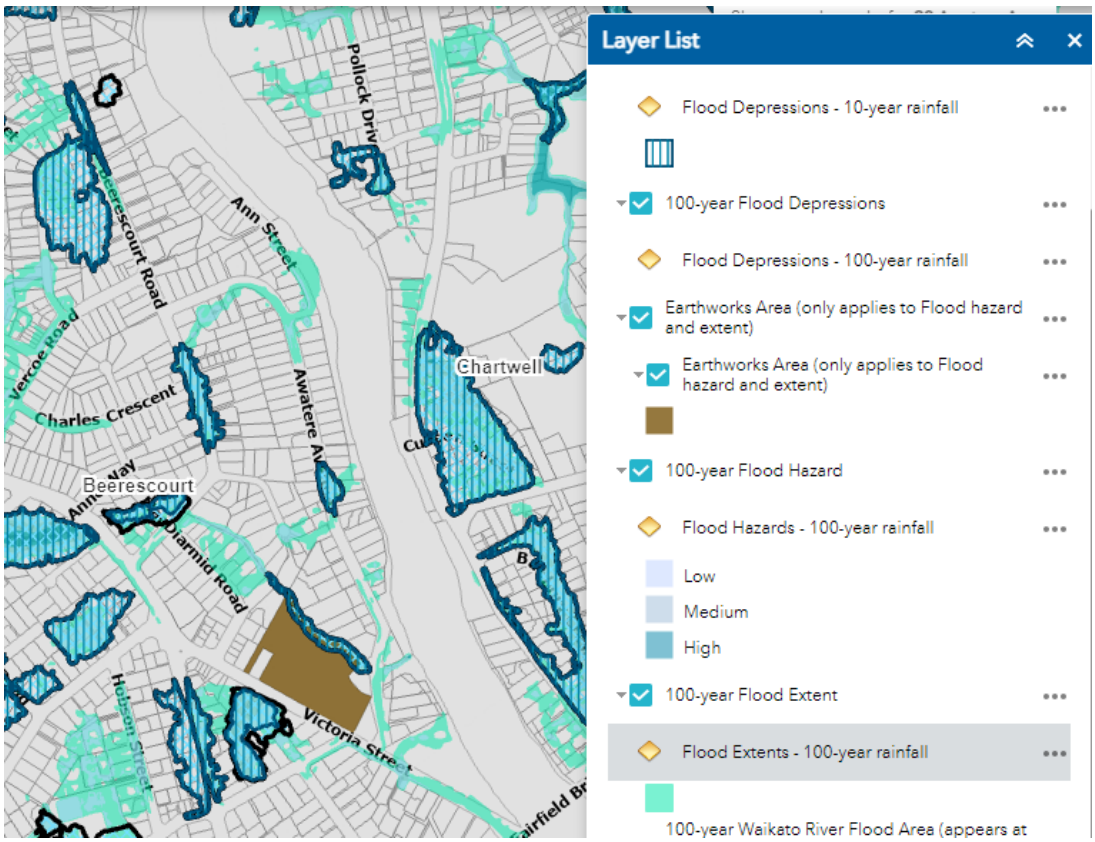
"In order for the District Plan to give effect to TTW, it must deliver on the objective of restoration and protection. Avoiding adverse effects is not enough. Land use activities engaging with and affecting the River must, in some proportionate way, contribute to its restoration and protection. In the context of plan provisions which are designed to enable increased residential densities, ... achieving this 'effects positive' outcome is extremely challenging."

We agree and assert the best way to achieve the "*extremely challenging 'effects positive' outcome"* for the small area of the city addressed in my submission is to look the challenge square in the eye and remove the proposed MDR zoning now.

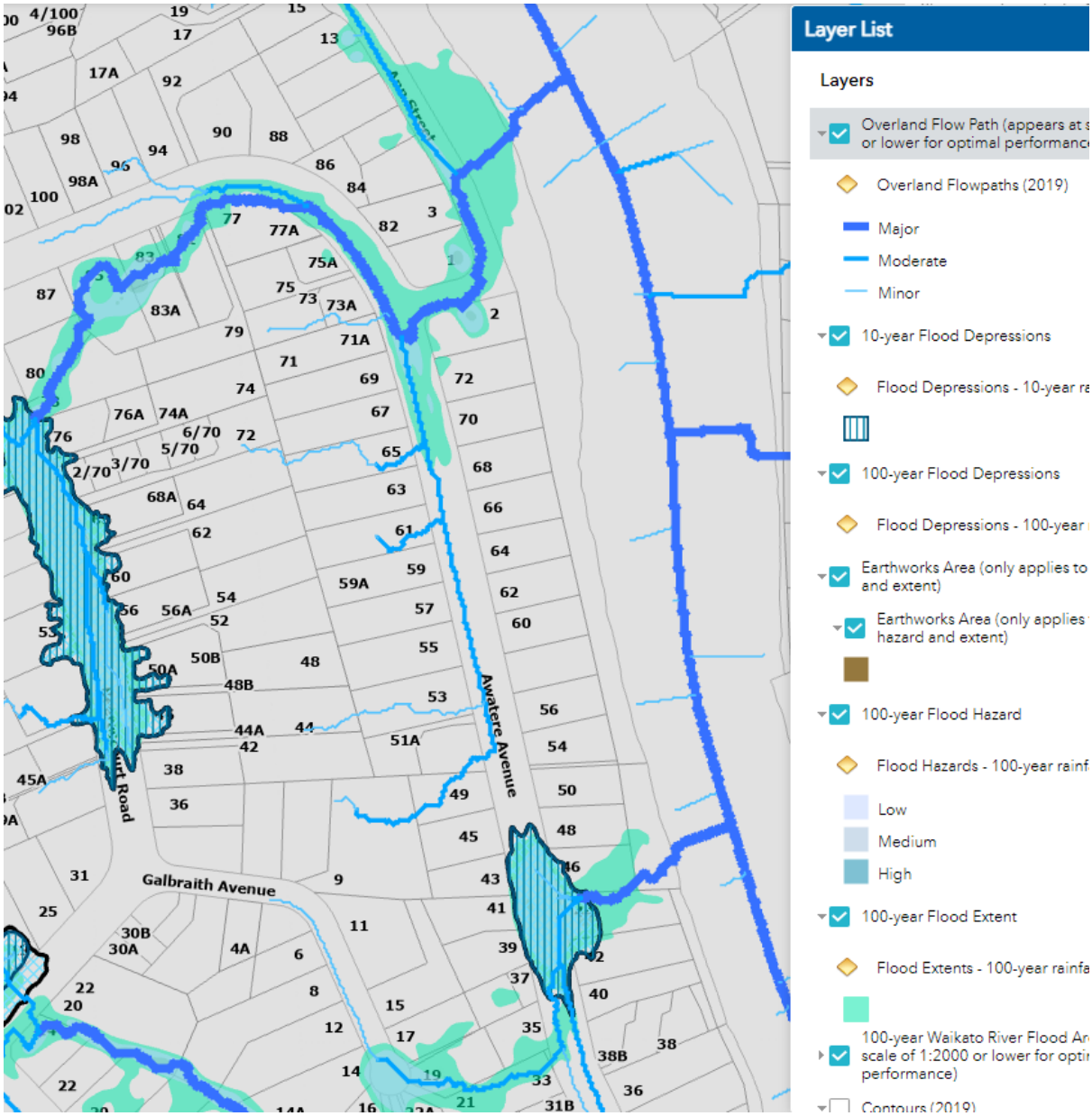
Allowing Medium Density Residential intensification on properties adjacent to, and some at the same level, as the River is intuitively and practically contrary to the primary guiding principle and objectives of TTW.

Imagine such development – minimum 150m^2 sections, builds up to three storeys without a resource consent, anything between three and five storeys with a resource consent and full infrastructure assessment – where the imperatives of development are pushing the built environment to maximise the available land and headroom, and ask how this can protect and restore the River. It cannot.

This proposed level of intensification is going to produce increased physical pressure on the riverbank and greater levels of storm water run-off which goes directly into the River, neither of which are consistent with restoration and protection. Every year following heavy rain there is surface flooding in the lowest parts of Awatere Avenue, which is unsurprising given the topology of the area. Such flooding is literally the surface level of what is occurring naturally. Water drains from all the surrounding higher ground towards the River all year round. This is evident even at a macro level using the Waikato Regional Council's Floodviewer at https://maps.hamilton.govt.nz/floodviewer/. Here is an extract from that for our area:



What this view tells you is that all the areas on Awatere Ave and Ann Street identified for Medium Density Residential development are prone to being impacted by water flows, and outright flooding in some instances. This is not limited to those residences at the lowest levels, it includes those on the whole length of Awatere Avenue and Ann Street as well. This is because they are all located on the historic bank of the River, the run-off pathway for naturally occurring storm water and seepage from the even higher ground at Victoria Street, Galbraith Avenue, and all the way along the ridge parallel to Beerescourt Road to Minchin Crescent. Which is why we have included that land in the scope of our request to the Panel. Here's what that looks like in a more detailed view from Floodviewer with the 'Overland Flow Path' showing:



The entire historic bank is comparatively unstable. This has been comprehensively documented in engineering surveys completed by Beca Infrastructure in a series of reports going back to 2006, commissioned by (then) Environment Waikato, (at

https://www.waikatoregion.govt.nz/assets/WRC/WRC-2019/1398713.pdf and successively updated, with findings incorporated into the Central Waikato River Stability Management Strategy 2008-2058 in 2007 (available at https://www.waikatoregion.govt.nz/assets/WRC/WRC-2019/Central-Waikato-River-stability-mngmt-stratgety-2008-2058.pdf, an update report from Beca in 2013. https://www.waikatoregion.govt.nz/assets/WRC/WRC-2019/Waikato_River_Bank_Erosion_Survey_Taupo_Gates_to_Ngaruawahia_-_Assessment_Report_-_Project_G201_128_2424003.pdf, and a consolidated position in the Central Waikato Zone Plan 2017 (https://waikatoregion.govt.nz/assets/WRC/Council/Policy-and-Plans/hazard-catchment-management/zone-management-plans/Central-Waikato-Zone-Plan.pdf. This document contains an eloquent summary of the Adverse Impact of Urban Development and Land Intensification on Waterways on Page 26.

We personally "discovered" this Riverbank Instability when we started the purchase process for our current residence in Awatere Ave, and obtained a LIM which included a notification about this. A copy of the notice is included in Appendix A. Whilst the Hamilton City Council's comment on this notification is equivocal as to the level of hazard we might face, a neighbourhood survey of residents' experiences in Awatere Ave and Ann Street indicates a succession of challenges with slips and spring water when undertaking even relatively simple building. (House numbers can be provided if required).

Looking at a recent neighbouring build into the hillside, and one which is in progress, shows that a high level of retaining infrastructure is required to achieve even the entry level height of what would be allowed in Medium Density Residential zoning – and under Plan Change 12, without an Infrastructure Assessment. That sort of planning enablement on ground described by Beca as 'naturally susceptible to erosion' is destined to simply increase the risk level for all concerned.

While we have no specific engineering or anecdotal evidence to support including the River side of Beerescourt Road in our Request, it seems prudent not to increase the load immediately on the top of a riverbank which in geo-engineering terms is potentially unstable. What we can observe to you are there are at least two gully systems starting from Beerescourt Road, as well as minor ones, which should be protected for drainage as well as wider ecological reasons, such as vegetation cover and the movement of tuna to and from the River. As Dr Davey noted, when we talk about the River, we are talking about tributaries and wider catchment areas as well as the main flowing water.

Returning to the topic of flooding, we must think also about protecting the River in terms of its ebb and flow. Every year following storms the River rises to a level such that the path between the River and Awatere Avenue is closed off, and water covers some of the Ann Street Reserve. In our 14 years living here we have seen the water come right up to

the road on Ann Street. Residents who have been here longer than us report levels rising higher than that, such that basement areas were flooded. This is exactly in the location where greater housing intensification is proposed to occur.

The Central Waikato River Management Strategy cited above consistently and comprehensively describes why the River should be managed, covering economic, engineering, cultural, social and historical factors; and how to do this. We invite the Panel members to consider these as reference materials when thinking about the protection and restoration of the River so will not reproduce the full set of findings and explanatory content in this Statement.

However, it is directly relevant to this submission to present the Panel with the Policy position on **Development and Protection** taken in this Strategy, bearing in mind it is a living document endorsed by all the Central Waikato Local Authorities proximate to the River as well as Waikato-Tainui and (then) Mighty River Power; and actively maintained by the Waikato Regional Council. Here are the first four points:

1.5 Policies

In order to achieve the social, environmental, cultural and economic objectives of this strategy, it is essential the following policies are adhered to:

Development and protection

- Natural river and riverbank processes should be allowed to occur except where essential assets require protection.
- Existing essential high-value built assets and infrastructure should be protected from riverbank instability.
- Undeveloped areas that are at risk from riverbank instability should remain free of capital intensive development so as not to increase the need for new riverbank protection works.
- Development should only occur where it does not require new structural bank protection works to be installed.

So, for starters, allow the River to flow, and maintain what is there. Then, do not develop where there is riverbank instability and need for significant capital investment and structural works. Our Request to the Panel is in line with this position.

Climatic changes suggest we will have more impactful storms and rainfall to contend with. We have seen recent examples of this to the north and east of the Waikato. Across several jurisdictions, Local Authorities are considering plans and taking action to step away from areas previously considered habitable or good for development, which are now understood to be ‘at risk’ from the impact of weather events on local geography.

We think it prudent to pre-empt creating such a situation in our community in the first place. Applying the “appropriate management of adverse effects” remedies stated in Plan Change 12 of ‘requirements around landscaping, permeable surfaces and rainwater tanks’, are simply inadequate to the task or irrelevant for the area covered in our Submission.

Additional reasons

Most of this Statement has focused on the scope and purpose of Plan Change 12, which is about enabling housing supply. There are two additional reasons why the Panel should Accept Submission #677970924 and recommend to Council that a Medium Density Residential zoning be dropped for this area of Beerescourt. They are Amenity/Social and Cultural/Historical.

Amenity/Social

Adjacent to the River in this area runs a river trail which is used by hundreds of people daily, for recreation and cycle travel in and out of the City . It is part of the larger Hauraki-Waikato River Trail, which is nationally recognised as an important recreational and tourism asset. It is one leg of the Aotearoa Cycle event, now held annually.

The river path was created in the mid-2000s in line with the Council's Riverside Reserves Management Plan 1997, which was itself in response to the Reserves Act of 1977 as well as additional legislative and planning requirements and actioned under the Riverside Reserves Operative Management Plan 2008 and Hamilton City River Plan 2014.

Significant levels of investment have been made over this time to create and maintain an asset of high amenity and social value. What should be understood is that this leg of the River Trail, from Fairfield Bridge to St Andrew's Golf Course is very narrow and rather fragile in several parts and would likely be adversely impacted by greater housing intensification along Awatere Avenue, with increased run-off and erosion affecting the path, replanting and riverbank protection work which has been undertaken.

Also included in this area is the Ann Street Reserve, which was acquired by the Hamilton City Council in 1951. This Reserve is remarkable in the city for being one of the very few areas of flat land adjacent to the River. It is the scene of regular annual community events, such as swimming races, Power boating, harriers, and one-off social gatherings. It provides access to the river for amateur anglers, and a place for families to gather for picnics, and for people to simply sit on a bench and watch the river flow. During Covid lockdowns the Reserve provided people with an accessible place to take some time out.

This Reserve is used by people from all over the city. We consider that housing intensification on even a small part of the street is inconsistent with the goals which informed the investment made, such as Access to the River, enjoyment of it, and Protecting the natural environment; and would degrade the value of this near unique city amenity for little housing gain.

Cultural/Historical

Also part of the River Trail and of similar importance to it, as well as environmentally, is the Matakanohi Reserve which run from near the Fairfield Bridge through to the St Andrew's Golf Course. Its status is amplified by being one of seventeen historic pa sites identified in Nga Tapuwae O Hotumauea, the Māori Landmarks on Riverside Reserves Management Plan 2003. The Reserve was formally established by resolution of the Hamilton City Council on 1 March 2006, and Gazetted on 6 April 2006.

No housing is proposed for this Reserve. What we are calling out here is the need to limit housing intensification along the top of Beerescourt Road running parallel to the Reserve. This is important for the same reasons as previously mentioned, to maintain historic riverbank stability and vegetation cover, some of which is from recent works to restore native flora, and reduced risk of erosion.

Other stuff

We could include in this Statement several reasons why housing intensification would be undesirable, such as increased traffic and noise levels, pressure on parking and other facilities, plus significant levels of infrastructure investment. These are all relevant, and common to many areas of the city.

What is likely to occur with more intensive development is a loss of greenery and an associated adverse impact on wildlife. We note that in recent years there has been an increase in the number and types of native birds in the area, such as tui, ruru, kereru, kotare, and piwakawaka. This is likely due to the development of the Reserves and established domestic plantings. We know that attention to the needs of native wildlife is important to the Council and the Waikato River Authority (https://waikatoriver.org.nz/). A recent example is the use of dim lighting on the Te Ara Pekapeka Bridge to Peacocke's development to be sensitive to the nocturnal flight of the pekapeka in the area; plus multiple initiatives by the Waikato River Authority.

It seems worthwhile to retain existing sympathetic flora where it exists rather than take it down and incur additional cost replacing it.

How did this area come to be proposed as Medium Density?

How did this pocket of Hamilton/Kirikiriroa come to include Medium Density Residential designations in the face of compelling, seemingly overwhelming evidence which indicates otherwise? This has been a puzzle until recently when one member of the community asked the HCC Urban and Spatial Planning Unit why some properties in Awatere Ave and Ann Street were designated Medium Density and others General Residential. Then it became clear following an email exchange with the HCC Planning Unit. (A copy of this is attached as Appendix 2).

The designations came from the Planning Unit identifying areas that are walkable from the central city or a major transport route, and specifically within 800 walkable metres of these. This is what created the 'saw tooth' profile of Medium then General then Medium designations along Awatere Avenue, and inclusion of four properties in Ann Street, as some could be reached from the north of the city centre, Ulster Street or Te Rapa Road.

We think the application of this lower order planning standard, while logical, is a false positive for our area. The primacy of TTW and other longstanding city planning priorities should prevail.

In conclusion

Our Request of the Independent Hearing Panel is to **Accept** Submission #677970924, in particular the following statement in the Submission, **and include it in your recommendations to the Hamilton City Council:**

I seek that the area along the historic riverbank in Beerescourt be designated General Residential not Medium Density - this includes all of Awatere Ave, Ann Street, and Beerescourt Road itself.

The basis for this is the application of Te Ture Whaimana o Te Awa o Waikato as the primary guiding principle to this part of the city, as a way to ensure the protection and restoration of the River and its environs.

The use of this planning principle will continue the Council's work and investment over the last two decades to create and protect a valuable natural asset. It will also minimise City Council risk from inappropriate levels of built development on unstable land, while still enabling a level of housing supply from a General Residential zoning designation.

Appendix 1 Riverbank Instability notification

General Information / Requisitions: Refer Customer Concern -Copy attached ☑

RIVERBANK INSTABILITY

NOTIFICATION OF RIVERBANK INSTABILITY ISSUES TO BE INCLUDED IN LIM REPORTS FOR IDENTIFIED SITES

This property has been identified as lying partly or wholly within an area that is potentially affected by Waikato River bank instability. This information comes from the findings in a report commissioned by Waikato Regional Council in a report by Beca Infrastructure Ltd titled the "Central Waikato River Stability Management". The report is held by Waikato Regional Council and Hamilton City Council and a copy of it may be viewed at or obtained from the offices of Hamilton City Council, Garden Place, Hamilton or on line at www.hamilton.co.nz/riversideproperty.

Hamilton City Council is unable to confirm with certainty the existence of a land instability hazard at this site, nor identify the severity or extent of that risk at this site. For that reason, this notification is given under Section 44(A)(3) of the Local Government Official Information and Meetings Act 1987. It is a notification of a potential hazard.

If you have any queries that are directly related to construction or development on the property then please phone 07 838 6677.

Record of Fill: Copy attached ☑

Bonds / Encumbrances: None recorded for this property.

Prosecutions Served / Legal File: None recorded for this property

Earthquake Risk: None recorded for this property

Wind Zone: Medium

Swimming Pool: None recorded for this property

Building Warrant of Fitness: Not applicable to residential properties.

If work has been carried out without a building consent:

Your Reference: Grainer Family Trust

Our Reference: 461/2009
BSU2-09 28/10/04

Appendix 2 Extract from email exchange with Planning Unit

This explains how the MDR zoning was applied to properties in Awatere Ave and Ann Street.

From: PlanChange <PlanChange@hcc.govt.nz>

Date: 2/09/24 12:00 (GMT+12:00)

To: [redacted] ian.anthony@xtra.co.nz

Subject: RE: General website enquiry - HCC-GEN-240827-ZGVYL

Hi [redacted],

Please see answers for your questions.

1. Was the proposal to rezone the properties at 1, 3, 5 & 7 Ann Street contained in the original proposals 2022 of PC12 or was it introduced as an update this year?

- The zoning proposal was part of the Aug 2022 notification documents. See zoning maps here: https://storage.googleapis.com/hccproduction-web-assets/public/Uploads/Documents/Content-Documents/Property-Rates-and-Building/PC12-Growing-Up/Appendices/Appendix-District-Plan-Maps.PDF

2. What is the difference between numbers 7 and its Residential General neighbour number 9 Ann Street which made Council decide that they should be in different zones?

- A walking network model was used to spatially define a walking catchment in GIS using the 800m distance. The model includes all footpaths, walking trails and open space connections, and road crossings including allowance for periodic mid-block crossings. The properties identified as 1,3,5,7 Ann street fall within the walkable catchment from the Te Rapa transport corridor.
- HCC has used the formula and metrics from New Zealand Transport Authority's Pedestrian Planning and Design Guide (PPDG) to inform walkable catchment studies. The full report is attached for your perusal.