BEFORE THE INDEPENDANT HEARING PANEL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of Proposed Plan Change 12 to the Operative Hamilton City District Plan

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SUPPLEMENTARY STATEMENT OF EVIDENCE OF DR MARK NAIRN DAVEY

(STRATEGIC OVERVIEW)

Dated 26 June 2024

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INTRODUCTION

1. My full name is Mark Nairn Davey.

2. I am the Unit Director of Urban and Spatial Planning for Hamilton City Council (**HCC**). I have held the role since December 2021. My qualifications and experience are set out in detail in my Statement of Evidence dated 12 December 2022[1] (**primary evidence**).

SCOPE OF EVIDENCE

3. The purpose of this evidence is to update the strategic planning basis underpinning HCC's revised approach to the Resource Management (Enabling Housing Supply and Other Matters) Act (**HSAA**) as notified under Plan Change 12 (**PC12**) to the Hamilton Operative District Plan (**ODP**).

4. As stated in my primary evidence, I will not specifically address any single submitter or submission point. I will leave that to later briefs of evidence to address.

EXECUTIVE SUMMARY

5. HCC has considered the submissions and further submissions received on PC12. It has also had the benefit of hearing strategic evidence from submitters in February 2023 and expert conferencing on 'Three-Waters and Planning' on 4 and 5 May 2023. The expert conferencing addressed Te Ture Whaimana (**TTW**) as a qualifying matter (**QM**) and the connection of this to HCC's planning response regarding enabled residential densities and existing and planned infrastructure capacity. The experts agreed *"there are infrastructure capacity challenges in Hamilton and that these can vary across the city and can be different*

[1] Paragraphs 2-6.

for the three services."

6. In summary, I remain of the view that HCC does not have sufficient network capacity to support the enabled densities sought by HSAA. The effects of permitting these densities unfettered when there is insufficient existing or planned Three-Waters network infrastructure are unacceptable. Enabling land use where there is no public infrastructure to service it is inefficient and leads to poor and non-strategic infrastructure planning outcomes. Conversely, allowing more development to proceed in the absence of sufficient Three-Waters infrastructure capacity will have an adverse effect on the Waikato River. This would mean that HCC would be in breach of its obligations under TTW. As stated in my primary evidence:[2]

> The body of evidence presented to support Plan Change 12 clearly outlines that the City would breach its obligations under TTW unless the MDRS and Policy 3 requirements are modified. The MDRS standards and Policy 3, without the application of QMs, would create a highly permissive planning framework for residential development in the City. It would enable residential intensification across all residential zones, leading to unfettered development outcomes. This will significantly challenge the ability to plan, invest and deliver infrastructure in time to service the development in a coordinated and cost-efficient manner.

7. The evidence presented by Ms Jackie Colliar and confirmed through the Joint Witness Conferencing, states that the permissive residential enablement provisions under HSAA, if implemented, would give rise to adverse effects on the Waikato River. As recorded in the Joint Witness Statement in relation to Three Waters and Planning:[3]

> **The experts also agree** that urban growth does need to be managed in recognition of these infrastructure limitations and in recognition of the statutory framework in particular the TTWM. A suite of tools, including infrastructure investment, the district plan, bylaws, connection approval processes can be used to manage the effects of urban growth and infrastructure demands.

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[2] Paragraph 94.

[3] Joint Witness Statement in relation to Three Waters and Planning dated 4-5 May 2023, para 3.1.1.

8. The HCC 2024-2034 Long-term Plan has confirmed that there will be limited capital investment in Three Waters infrastructure to support growth outside of the Stage 1 area. There are a range of factors that have led to this, including HCC's debt to revenue caps and the cost of brownfield Three Waters investment required to unlock growth.

9. To give effect to and 'accommodate' TTW as a QM in this context, HCC has proposed through the notified version of PC12 to:

   a) Apply an infrastructure overlay in the brownfield parts of the city, including centres, introducing density standards (permeable surface requirements and minimum lot sizes per unit), green policies (rainwater tanks, provision of trees, low-flow fixtures) and a need to undertake infrastructure capacity assessments for developments to assess if there is adequate network capacity.

   b) Introduce financial contributions which specifically seek to mitigate some of the adverse effects on the Waikato River and are invested in initiatives which achieve betterment.

   c) Enable development within the 'Stage 1' area which includes the central city, walkable catchment and CBD North. Retain the green policies and limit the infrastructure capacity assessments to local network only (on the basis that over time the City will lead the investment into strategic infrastructure assets to service growth).

   d) Adopt a connections approval process that includes an assessment of network capacity to determine whether an approval will be granted. This is underpinned by existing bylaws under the Local Government Act 2002.

10. The updated plan provisions circulated on 27 May 2024 retain this

overall strategic approach with the exception of some refinement in several areas which I set out as follows:

a) Areas of medium density residential zoning: These areas are a response to Policy 3(d) of the NPS-UD and the amended provisions give effect to Policy 3 while responding to submitter concerns and infrastructure capacity constraints which, if not well managed, will lead to conflict with HCC's obligations in respect of TTW. The updated approach removes the proposed medium density residential zoning from around Glenview, Dinsdale, Norton and Thomas Road centres. It adds medium density residential zoning along the Boundary Road and Hukanui Road corridors and extends the medium density zoning around the University and Waikato Hospital.

b) Number of residential units per site in the general residential zone: The notified provisions enabled three residential units per site, in line with the Medium Density Residential Standards (**MDRS**). Submitters and the Joint Witness Statement have highlighted the pressure this will place on an already constrained Three Waters network and the consequential impacts on TTW. The amended provisions enable two residential units per site in the general residential zone as a permitted activity. This has negligible impact on the overall quantum of zone enablement but will significantly improve HCC's ability to meet its obligations under TTW by avoiding adverse effects on the Waikato River.

c) Design standards: many submitters identified concerns regarding amenity and design outcomes, as well as impacts on Three Waters infrastructure. The amended provisions address these matters and propose various changes to the MDRS. Some of these changes enhance resilience to stormwater effects, and

so serve to respond to TTW as a QM[4], but some are purely amenity related.[5] These changes rely on the legislative amendments. HCC intends to present these proposed plan provisions to the Panel at the PC12 hearing nevertheless, so that depending on the timing of the legislative amendments, these provisions can be considered and, if lawful, recommended by the Hearing Panel.

11. With respect to (iii) above, the various announcements from the Coalition Government to make MDRS "optional" has created political and community expectations that there will be more discretion afforded to the Hearing Panel and HCC in their decision-making. At the time of writing, the legislative reform enabling this "optionality" has not yet been introduced to Parliament meaning not only is there no legal basis for optionality but there is also a lack of specificity of the policy until the Bill is introduced. From Cabinet papers released, we understand this Bill is expected to be introduced between July and September 2024 and passed into law January-March 2025[6]. We understand from press statements from the Minister for Housing and Ministry for the Environment officials that any optionality to MDRS will be contingent on ensuring there remains sufficient supply to meet long-term (30-year) demand.

12. Further, we have had the unique benefit of seeing the notified PC12 provisions in action through recent resource consent applications that have used the PC12 standards. Resource consent applications have demonstrated that the PC12 provisions, overall, are workable and result in better design outcomes than the ODP while also maximising site yield and overall density. These improved design outcomes are

[4] Building coverage rule 4.2.5.2.
[5] For example Building setbacks rule 4.2.5.6; Building height rule 4.2.5.4; Height in relation to boundary rule 4.2.5.5; Public interface rule 4.2.5.8.
[6] https://environment.govt.nz/assets/publications/Work-Programme-for-Reforming-the-Resource-Management-System.pdf.

thanks to greater site layout flexibly that PC12 affords, combined with the proposed green polices and urban design expectations.

13. Being able to view these developments has enabled staff to assess where improvements can be made to the notified provisions. The changes proposed in the 27 May 2024 PC12 provisions, staff recommendations and associated evidence reflects those observations and learnings through real-world implementation experience.

14. The proposed changes to PC12 will result in a plan enabled capacity of 189,447 residential units. This quantum of supply remains 3.8 times greater than the total projected demand for residential units over the long term at 49,000. As such, the costs of a less enabling regime under PC12 in response to the HSAA, in my view have a negligible impact on ensuring sufficient supply of residential housing in Hamilton.

DISCUSSION

Spatial distribution of medium density zoning

15. The changes to the spatial layout of the medium density residential zoning are the most significant change from that which was notified. Most importantly, this proposed change results in a consolidation of density into certain geographies within the City as opposed to a more decentralized nodal approach. Policy 3(d) seeks *"building heights and densities of urban form commensurate with the level of commercial activity and community services."*

16. The change in spatial allocation is informed by the following factors, along with submissions:

    a) The flood hazards around Dinsdale Centre.

b) The flood hazards around Nawton Centre.

c) The size and scale of Nawton and Glenview relative to their commercial activity and community services.

17. In addition, the spatial concentration of medium and high-density zoning will make the provision of enabling infrastructure such and three waters easier and more cost-effective. As noted in Ms Colliar's Statement of Evidence dated 20 December 2022:[7]

> Unless increased densities are targeted, HCC would be unable to plan, deliver, and manage the Three Waters infrastructure successfully to ensure it was giving effect to Te Ture Whaimana.

18. Prioritising specific parts of the city for higher residential densities will provide a greater ability to align infrastructure investment spatially with growth, further supporting HCC to meet its obligations under TTW.

19. The medium density zone intensification along the Hukanui corridor aligns closely to Crown land holdings in Enderley-Fairfield where the Crown owns approximately 20% of housing stock. HCC has worked with Kainga Ora regarding integrated master-planning for this locality. The master-planned approach allows the flood hazards and stormwater issues in this area to be addressed and in turn enabling higher densities to be realised. The concentration of properties in single ownership by the Crown heightens the likelihood of re-development occurring in a well-planned and integrated manner. As Kainga Ora stated in their submission to HCC's 2024-2034 Long-Term Plan[8], they said the area offers *"a strong opportunity to reimagine*

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[7] Paragraph 28.

[8] https://haveyoursay.hamilton.govt.nz/communications/2024-34-ltp/consultation/view_respondent?show_all_questions=0&sort=submitted&order=ascending&_q__text=mark+rawson&uuId=301873092

brownfield and infill developments at scale… given its average age, contiguous land holdings and large sections."

20. Furthermore, in the same submission, Kainga Ora note that in this locality in particular, feasibility will be greater than elsewhere. This raises the likelihood of the HSAA densities being realised. It is on this basis that there is strong merit in allowing a bespoke response to Policy 3(d) including infrastructure triggers which will ensure integrated urban redevelopment can occur.

21. The intensification along the Boundary Road and Hukanui Corridors aligns more closely with the aims of the Hamilton-Waikato Metropolitan Spatial Plan Transport Programme Business Case (**MSP Transport PBC**) which I discussed in my primary evidence:[9]

> To support the delivery of a viable RTN network in a Hamilton-Waikato context, first, is the need to nurture the CBD as a centre and destination which generates high-levels of demand. The MSP Transport PBC worked on the basis that the CBD is a central civic and cultural core of the region, therefore all RTN routes must go through the CBD in order to support its vitality. The important factor was ultimately about the network providing reverse flow to provide balance in the network, for example two-way demand between other nodes, like Ruakura/University, Airport and Te Rapa.
>
> For the central city to be the successful anchor of a future RTN network, requires on-going support of the central city to promote greater levels of development, a mix of employment, visitor attractions, services amenities and residential activities ideally within a confined geographic area. This was the key premise of the MSP Transport PBC – hence why each RTN dissected the central city with the aim that the CBD becomes the focal point of an RTN network from which RTN corridors then expand out from. Sufficient population densities then need to be attained within walkable catchments of key nodes along a proposed route. This is critical in order to have sufficient patronage to make an RTN scheme viable along a given corridor. The development of RTN corridors and nodes also need to be sequenced to make the frequency of the RTN service viable.

Infrastructure funding

22. The funding constraints faced by HCC have been outlined through the 2024-2034 Long-term Plan process. HCC has agreed to a 16.5% rates

[9] Paragraphs 38-39.

increase in year 1, followed by four years of rates increases at 15.5%, 14.6%, 13.5%, and 12.5%. This has a combined effect of almost doubling rates within five years. For the majority of the next 10-year period, HCC remains at its debt ceiling ranging between 280-285%. This means that HCC cannot borrow more money to fund additional capital investment.

23. Through the Long-term Plan Council has agreed to focus the limited 3-waters investment to enable growth only in the Stage 1 (Central City) area focused on stormwater management, water supply and wastewater to the tune of circa $**250M** supported by the Infrastructure Acceleration Fund $**150.2M** grant. Despite the investment committed to the Stage 1 area, there are still many enabling capital projects for Stage 1 being differed in the Long-term Plan. Outside of Stage 1, there is minimal growth-related capital investment planned in the area of 3-waters in existing brownfield environments. Capital investment in 3-waters networks for brownfield areas outside of Stage 1 is primarily targeted at remedying existing network performance or meeting consent requirements. The investment which is proposed is targeted on specific interventions such as stormwater management (circa $**150** million over 10-years) and wastewater resilience projects (e.g. holding tanks, circa $**130M** over 10-years)– none of which are at a scale which would allow for existing Operative District Plan densities, let alone those envisaged by HSAA.

24. More broadly, a concentrated approach to the enablement of higher density, commensurate with infrastructure capacity and investment, focused around the CBD, better meets the primary objective of the NPS-UD with respect to creating well-functioning urban environments.

Flood hazards

25. Turning now to flood hazards. On 12 June 2023, HCC sought an extension to the ISPP timetable in order to complete flood modelling (including depression areas) and to notify Plan Change 14 (**PC14**). Over this time, HCC has completed its mapping and notified the most affected property owners who have moderate flood hazards on their property. The updated flood modelling information is available at: https://maps.hamilton.govt.nz/floodviewer/. HCC has also undertaken pre-notification consultation with key stakeholders on PC14. PC14 is now expected to be notified September 2024.

26. The planning approach has been considered with respect to PC14 and the proposal to have flood mapping outside of the district plan remains. I rely on the planning evidence of Dr Reu Junquiera which sets out further detail of the planning approach. HCC intends to make minor changes to the activity status and assessment criteria with regards to certain flood hazards. Further cost-benefit analysis is currently being undertaken with respect to Resource Management Act 1991 (**RMA**) and non-RMA methods to manage depression areas.

27. The proposed approach to flood hazards remains with respect to:

    a) Maintaining continuity of overland flow paths;

    b) Managing the cumulative effects of displacement onto adjoining sites;

    c) Flood hazards associated with depressions (ponding created because of a lack of outlets or blocked culverts);

    d) Appropriateness of risk management controls within the low flood hazard areas; and

    e) Providing greater certainty on existing controls, including

freeboard requirements, design of fences and walls.

28. In terms of the bearing flood hazard information has had on intensification under PC12, staff have considered the new flood hazard data with respect to where and how density is being enabled. This has resulted in adjusting the density around Dinsdale, Glenview and Nawton centres where flooding issues are more prevalent and, through the updated plan provisions, HCC is proposing a specific plan-response in Enderley-Fairfield where more work has been undertaken to understand the most effective response to flood hazards in this locality while enabling intensification. As discussed in the Three Waters evidence prepared by Ms Emily Buckingham, where an ICMP has been approved for the Enderley-Porritt area and development is undertaken in accordance with the ICMP, development will not require consideration against the ICO provisions.

29. The pathway to adjust the MDRS and Policy 3(d) in response to natural hazards is provided for under section 77(I)(a) of the RMA in so far as section 6(h) of the RMA requires territorial authorities to "recognise and provide for" "the management of significant risks from natural hazards." I note that clause 99 of Schedule 1 provides that the Hearing Panel is not limited in its recommendations by the scope of submissions.

30. Under section 80E(1)(b)(iii) of the RMA, an IPI is permitted to amend or include related provisions that support or are consequential on the MDRS and Policy 3. Related provisions are defined in section 80E(2) and include (relevantly): district-wide matters, QMs and stormwater management. I consider that the changes to the MDRZ provides a sufficient immediate response to flood hazards pending notification of PC14 and a more comprehensive and city-wide approach to food hazards.

Update on Plan Change 9

31. Touching briefly on Plan Change 9 (**PC9**) to the ODP and the status of this plan change relative to PC12. PC9 was notified on 22 July 2022. It incorporated five elements: Signification Natural Areas, Archaeological and Cultural Sites, Built Heritage items, Historic Heritage Areas (**HHAs**) and Notable Trees. All aspects other than Notable Trees had immediate legal effect. Decisions on Signification Natural Areas, Archaeological and Cultural Sites and Notable Trees have now been released. Three appeals have been received, all in relation to the Significant Natural Area topic.

32. Out of the five PC9 topics, HHAs had the most impact on PC12 as a QM. The PC9 Hearing Panel has determined that the following HHAs notified under PC9 be removed from Schedule 8D:

    a) Augusta, Casper and Roseburg Streets;

    b) Casey Avenue;

    c) Hooker Avenue;

    d) Jennifer Place;

    e) Lamont, Freemont, and Egmont Streets;

    f) Oxford Street (East) and Marshall Street;

    g) Seifert Street;

    h) Springfield Crescent; and

    i) Sunnyhills Avenue.

33. HCC continues to pursue the following HHAs and these remain under consideration by the Hearing Panel on PC9:

a) Acacia Crescent;

b) Ashbury Avenue;

c) Cattanach Street;

d) Chamberlain Place;

e) Claudelands Commercial;

f) Claudelands;

g) Fairfield Road;

h) Frankton Commerce Street;

i) Frankton East;

j) Frankton Railway Village;

k) Hamilton East;

l) Hayes Paddock;

m) Matai, Hinau and Rata;

n) Myrtle Street and Te Aroha (West);

o) Riro Street;

p) Sare Crescent;

q) Te Aroha Street (East);

r) Temple View;

s) Victoria Street; and

t) Wilson Street and Pinfold Avenue.

Impact of changes on supply

34. The below Table 1 shows plan enabled capacity, updated to reflect the latest zoning pattens and provisions from 27 May 2024. These show that the latest changes to the PC12 provisions would still enable a significant amount of housing supply compared to both the ODP and projected demand over the long term at 49,000 residential units.

***Table 1**: Plan enabled capacity modelling*

	ODP	Notified PC12	27 May Revision PC12
Total Dwelling Capacity	139,600*	242,500*	189,447

*Data from HBA 2023

35. I consider that the excessive plan enabled supply provided under both PC12 and the MDRS enabled through the HSAA (without the application of QMs and nuanced zoning), relative to demand, is likely to lead to a scattered development pattern of urban intensification across existing residential areas in Hamilton regardless of the locational attributes, amenity, services and overall suitability of any given area to accommodate intensification.

36. The Market Economics report 2022 concludes that within the options, Scenario 3 (PC12) is likely to represent a more favourable option (than Scenario 2 – HSAA without QMs applied) in relation to the "economic costs and benefits and the alignment with the objectives of the NPS-UD". Market Economics finds that Scenario 3 is likely to "*support a more efficient spatial economic structure for the city (than Scenario 2) as higher density development is limited to central areas where it is more likely to support the primacy of the City Centre."*

Summary

37. Clearly defined geographic parameters of where intensification can occur is critical to achieving well-functioning environments. The ability to service growth through efficient infrastructure is a core tenet of this.

38. Under a highly permissive planning framework, where there is an abundance of market opportunities, the location and type of where development opportunities are realised will be highly uncertain. This will mean from an infrastructure and investment point of view it will be hard to predict and respond to. This will also raise questions regarding the efficient use and return on investment of existing infrastructure assets.

39. Through the planning frameworks established by district plans the permitted activity statuses create the permitted baseline of effects. The MDRS under HSAA creates a new environmental bottom line or permitted envelope of effects which significantly enlarges that which exists under the existing regime. This is evidenced through the new plan enabled capacity and market feasible capacity quanta discussed earlier.

40. Planning, the use of defined geographic extents for where intensification can occur, and rules or standards which manage the type and extent of intensification within parameters are fundamental. These two levers mean infrastructure investment can more easily anticipate and be programmed for delivery aligned to growth in an efficient manner. In the absence of this planning, it will lead to ad-hoc growth which in turn will overwhelm the Three Waters networks which will generate adverse effects on the Waikato River and a breach of HCC's obligations under TTW.

41. This certainty of outcome through planning allows urban growth to be serviced in a feasible, timely and cost-efficient manner. More broadly beyond Objective 1 of the NPS-UD, HCC has legal requirements under the RMA in regards to section 31(1)(a) to *"…achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district"*.

42. In my view, the requirements of the NPS-UD, TTW as a QM and the broader obligations HCC has under section 31 of the RMA support the revised approach to PC12. Without taking this approach, the integrated management of the effects of development on land will not be possible in an urban environment. For the reasons outlined, this would not achieve a well-functioning urban environment and at the same time lead to a breach of obligations under TTW.

43. As stated in my primary evidence, it is also important to note that the Hamilton market is unique regarding its size, characteristics, and demand profile. Hamilton is a compact city compared to other Tier 1 urban environments. For example, in 2018 Hamilton had a population density of 1,458 people per sq km compared to Tauranga at 1,013 people per sq km [10]. By total land area, Hamilton is the most densely populated territorial area in the country.

44. Further, Hamilton has the smallest land area among all Tier 1 territorial authorities. Hamilton is relatively flat, the distribution of its commercial centres are close together, and the scale of each centre is generally smaller than those of larger metropolitan centres like Auckland, Wellington and Christchurch – reflective of the size of the economy and catchment for which they service. These factors mean that large parts of the city are highly accessible from multiple locations and, therefore, justify a more nuanced approach to the

[10] Population size and change, Environmental Health Intelligence New Zealand. 2018.

location of medium density zoning as put forward in the updated PC12 provisions provided on 27 May 2024.

45. The updated PC12 provisions continue to represent good urban planning by focusing densities around centres in contrast to the ad-hoc MDRS approach which will enable increased development densities throughout the residential urban environment.

CONCLUSION

46. The evidence shows that without adjustment, the requirements of the HSAA (MDRS and Policy 3) will place HCC in conflict with its obligations under TTW. This necessitates modification to accommodate TTW as a QM. The updated provisions of PC12 balance the overall intent of the HSAA regarding housing enablement while still meeting sufficiency requirements in the HBA and not contravening the higher order requirements the City has to protect and enhance the Waikato River.

47. Under current district plan settings, the City has a high proportion of market feasible supply well in excess of forecast demand. The City has had housing intensification policies for over two decades now which have led to more diverse housing types and strong market up-take of in-fill and brownfield residential housing options. Even with the imposition of QMs and modification of the MDRS and Policy 3 provisions, PC12 will substantially increase the market feasible supply far beyond forecast demand.

48. The costs associated with the updated PC12 approach remain minimal with respect to zoned housing supply. Notwithstanding this, the City still has infrastructure challenges with respect to enabling growth in many brownfield localities.

49. The approach HCC has taken to HSAA through PC12 has struck an

appropriate balance across the competing policy objectives of HSAA, the NPS-UD and TTW. The updated approach to PC12 reflects a pragmatic and balanced approach responding to the unique Hamilton policy context and environmental bottom-lines.

Dr Mark Nairn Davey

26 June 2024