Form 5 Submission on notified proposal for policy statement or plan, change or variation

Clause 6 of Schedule 1, Resource Management Act 1991

To Hamilton City Council

Name of submitter: **Joshua Sean Marshall**

This is a submission on the following proposed policy statement (*or* on the following proposed plan *or* on a change proposed to the following policy statement *or* plan *or* on the following proposed variation to a proposed policy statement *or* on the following proposed variation to a proposed plan *or* on the following proposed variation to a change to an existing policy statement *or* plan) (the **proposal**):

Proposed Plan Change 12 of Hamilton City District Plan

I could not gain an advantage in trade competition through this submission.

The specific provisions of the proposal that my submission relates to are:

as further set out in the appendix to this form

My submission is:

see the appendix to this form

I seek the following decision from the local authority:

see appendix to this form

I wish to be heard in support of my submission.

If others make a similar submission, I will consider presenting a joint case with them at a hearing.

Signature of submitter
(*or* person authorised to sign
on behalf of submitter)

Date **26 August 2022**
(A signature is not required if you make your submission by electronic means.)

Electronic address for service of submitter: **joshua.marshall.nz@gmail.com**
Telephone: **027 342 5491**
Postal address (*or* alternative method of service under section 352 of the Act): **N/A (electronic address provided**
Contact person: **N/A**

Note to person making submission

If you are making a submission to the Environmental Protection Authority, you should use form 16B. If you are a person who could gain an advantage in trade competition through the submission, your right to make a submission may be limited by clause 6(4) of Part 1 of Schedule 1 of the Resource Management Act 1991.

Please note that your submission (or part of your submission) may be struck out if the authority is satisfied that at least 1 of the following applies to the submission (or part of the submission):

- it is frivolous or vexatious:
- it discloses no reasonable or relevant case:
- it would be an abuse of the hearing process to allow the submission (or the part) to be taken further:
- it contains offensive language:
- it is supported only by material that purports to be independent expert evidence, but has been prepared by a person who is not independent or who does not have sufficient specialised knowledge or skill to give expert advice on the matter.

Submissions of Josh Marshall on Proposed Plan Change 12 to Hamilton City District Plan

Provision	**Support / Oppose / Amend**	**Reasons**	**Relief Sought**
2.1(e)	Amend	"Residential areas" is not defined and does not have a clear meaning. This paragraph is open to interpretation. The statutory term "relevant residential zones" should be used.	Amend as follows: Schedule 3A of the RMA requires all relevant residential ~~areas~~ zones give effect to the MDRS standards, to achieve well-functioning urban environments which enable current and future communities to provide for their wellbeing, health and safety. In some circumstances qualifying matters may modify the MDRS and these qualifying matters are identified in the Plan.
2.2.14(c) & (d)	Amend	These policies are inconsistent with the proposed objective. The average walking speed is 4 kmph. In 10 minutes, an average person will walk over 650m. Objective 2.2.14(ii) would be better supported by policies encouraging density within 650m of centres.	Amend distance provisions to 650m.
4.1.2.4d	Amend	This policy, taken literally, would suggest that local business have to take active steps to prevent people from coming from outside the neighbourhood. In light of the case law around matter such as	Replace "only" with "primarily".

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		"avoid" policies, the word "only" should not be used.	
4.2.3.1(hh)	Amend	Typo	Change "accept" to "except"
4.2.3.1(mm)	Amend	Inconsistent with 4.2.3.1(nn).	Amend: Relocated buildings <u>outside an Historic Heritage Area</u>
4.2.4 and equivalent provisions	Amend	For some standards, it does not make sense to refer to an extent of infringement as a percentage. Some standards are binary (are either met or they aren't). For example, 4.2.5.3(d). The notification rules need to address how such standards are to be considered.	Amend rule to address consideration of compliance with binary standards and other standards where extent of infringement cannot be considered as a percentage.
4.2.4(ii)&(iii) and equivalent provisions	Amend	These rules, as drafted, are ultra vires. Section 95B allows rules in a plan to preclude limited notification. However, it doesn't allow rules in a plan to define a subclass of people who may be limited notified. Such a process is inconsistent with the limited notification assessment process set out in ss 95B and 95E. If limited notification is not precluded by the rule then every	Delete all instances of "to the owners and occupants of adjoining sites"

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		"affected person" as defined in s 95E must be notified. A rule cannot override this statutory test.	
4.2.5.3 and equivalent provisions	Amend	The formatting of this table is extremely confusing to the point of being misleading.	Fix formatting in table.
4.2.5.11(a) and equivalent provisions	Amend	It's unclear what these standards apply to. I.e. what must be $5m^2$ per residential unit?	Amend for clarity.
4.2.6.1(b) and equivalent provisions	Amend	"front, corner or through site" not defined and unclear meaning	Amend for clarity
4.2.6.4(i) and equivalent provisions	Amend	This rule could exclude business who hire several cleaners for only a few hours each week. It would be better to refer to full time equivalents.	Amend: Not involve more than three <u>full time</u> employees <u>(or part time employees corresponding to an equivalent number of hours)</u> that do not normally reside on the property.
Zoning of Holloway Place, Kingsway Crescent and those parts of Mitcham Avenue and Storey	Amend	The streets in question are currently zoned General Residential Zone. These streets form a no exit part of the neighbourhood. They are only accessible (by road) by the rest of the neighbourhood zoned Medium Density Residential Zone.	Rezone Holloway Place, Kingsway Crescent and those parts of Mitcham Avenue and Storey Avenue currently zoned General Residential Zone to Medium Density Residential Zone

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Avenue currently zoned General Residential Zone		The streets in question are an integrated part of the wider neighbourhood. There is no justification for zoning them in a different neighbourhood to the rest of the Zone. Rather, doing so has the potential to create an isolated pocket of the neighbourhood with a different character to the rest of the neighbourhood which would be incongruous. These streets should also be zoned Medium Density Residential Zone.	