Submission on a notified proposal for Plan Change 12 to the Hamilton District Plan under Clause 6 of Schedule 1 Resource Management Act 1991

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This is a submission on Plan Change 12.

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

HUD's role and responsibilities

HUD leads the New Zealand Government's housing and urban development work programme. We are responsible for strategy, policy, funding, monitoring and regulation of New Zealand's housing and urban development system. We are working to:

- address homelessness
- increase public and private housing supply
- modernise rental laws and rental standards
- increase access to affordable housing, for people to rent and buy
- support quality urban development and thriving communities.

We work closely with other central and local government agencies, the housing sector, communities, and iwi to deliver on our purpose – thriving communities where everyone has a place to call home – he kāinga ora, he hapori ora.

Our work on the planning system – outlined further below – contributes directly to several of the above streams of work (particularly, increasing housing supply and supporting quality urban development) and provides a necessary foundation for the others.

Wider Context

The Government Policy Statement on Housing and Urban Development 2021 (GPS-HUD)
The GPS-HUD sets a direction for housing and urban development in New Zealand. Its overarching vision is that everyone in New Zealand lives in a home and a community that meets their needs and aspirations.

The four main things it sets out to achieve are:

- **Thriving and resilient communities** – the places where people live are accessible and connected to employment, education, social and cultural opportunities. They grow and change well within environmental limits, support our culture and heritage and are resilient.
- **Wellbeing through housing –** everyone lives in a home, whether it's rented or owned, that is warm, dry, safe, stable and affordable, with access to the support they need to live healthy, successful lives.

- **Māori housing through partnership** – Māori and the Crown work together in partnership so all whānau have safe, healthy, affordable and stable homes. Māori housing solutions are led by Māori and are delivered locally. Māori can use their own assets and whenua Māori to invest in and support housing solutions.
- **An adaptive and responsive system** – Land-use change, infrastructure and housing supply is responsive to demand, well planned and well regulated.

The National Policy Statement on Urban Development (NPS-UD) and the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (the Amendment Act)

HUD has a particular interest in this Plan Change stemming from its co-lead role in developing the NPS-UD and the Amendment Act and overseeing their implementation.

The NPS-UD aims to ensure councils better plan for growth and remove overly restrictive barriers to development to allow growth in locations that have good access to services, public transport networks and infrastructure. The NPS-UD *intensification policies* require councils to enable greater heights and densities in areas that are well-suited to growth, such as in and around urban centres and rapid transit stops.

The Amendment Act introduced the Intensification Streamlined Planning Process for tier 1 councils to implement the intensification policies and additionally required these councils to introduce the Medium Density Residential Standards.

Both the Amendment Act and NPS-UD provide for qualifying matters – justified reasons to reduce heights and densities enabled.

Together, the NPS-UD and Amendment Act are intended to ensure New Zealand's towns and cities are well-functioning urban environments that support housing supply and affordability, accessibility to jobs and services, and emissions reduction.

The benefits of intensification

In recent years, HUD and the Ministry for the Environment (MfE) have commissioned a series of work to develop an evidence base to inform policy development and to support the evaluation of policies. This evidence base has been bolstered by international evidence that has considered the impacts of intensification. Reports commissioned by HUD and MfE include (but are not limited to) the following:

- The costs and benefits of urban development, 2019, MRCagney: https://environment.govt.nz/publications/the-costs-and-benefits-of-urban-development/
- The cost benefit analysis for the National Policy Statement on Urban Development, 2019: https://environment.govt.nz/assets/Publications/Files/NPS-UD-CBA-final.pdf
- The cost benefit analysis for the Medium Density Residential Standards: https://environment.govt.nz/assets/publications/Cost-benefit-analysis-of-proposed-MDRS-Jan-22.pdf

As a whole, this evidence base clearly shows the benefits of intensification in the form of:

- **Social benefits**, resulting from greater availability of a wide range of housing typologies in areas that are close to jobs and services. This can slow or reverse the transfer of wealth from future homeowners and renters to current property owners in areas with heavy restrictions.
- **Economic benefits**, resulting from greater productivity. *Agglomeration economies* drive productivity growth in areas where higher numbers of firms and people are

located near one another, as a result of improved matching between employers and employees and higher levels of innovation (due to 'knowledge spillovers').
- **More efficient use of infrastructure**, as infrastructure costs are lower, on average, for medium density developments and developments in inner-city areas.
- **Environmental benefits** relative to greenfields development and to development further from the centre of cities. In particular, intensification is a key mechanism for reducing carbon emissions, enabling shorter commute times and efficient use of infrastructure, while continuing to meet housing and urban development needs.

There are a wide range of additional impacts that arise from various types of urban development, including costs such as sunlight loss and congestion. However evidence shows that the benefits outlined above tend to outweigh costs and do so substantially in areas that are well-suited to development. Benefits are also widespread, longstanding and projected to grow substantially over time. Costs are real but tend to be smaller and more narrowly focused, primarily affecting current homeowners.

As a result, modelling for both the NPS-UD intensification policies and the Medium Density Residential Standards (MDRS) showed a clear net benefit. This work also highlighted that the costs of any restrictions imposed will be a reduction, to a greater or lesser extent, in the positive impacts outlined above.

In its role overseeing the implementation of the NPD-UD and MDRS, HUD is focused on ensuring these benefits are realised, and that restrictions are only put in place where there are genuine qualifying matters that need to be managed.

Scope of Submission

The submission relates to:

- The infrastructure overlay

HUD supports in part how this matter is addressed in the plan change 12.

The Submission is:

Plan Change 12 proposes a 'three waters infrastructure capacity' overlay. The overlay would apply across much of the existing, urbanised area of the city and require infrastructure capacity assessments for housing developments of a medium to high density.

Sections 77I to 77M of the Resource Management Act 1991 (RMA), and clauses 3.32 to 3.33 of the NPS-UD, place a number of requirements on councils when proposing such restrictions.

Section 77I states that:

> *"A specified territorial authority may make the MDRS and the relevant building height or density requirements under policy 3 less enabling of development in relation to an area within a relevant residential zone only to the extent necessary to accommodate 1 or more of the [qualifying matters]"*

This makes it clear the restrictions can only be for identified purposes, and must be designed in the most efficient way possible – addressing the matter without unnecessarily restricting development.

Hamilton City Council (HCC) has developed an infrastructure overlay it considers necessary to fulfil its commitments under Te Ture Whaimana o Te Awa o Waikato/the Vision and Strategy for the Waikato River (Te Ture Whaimana). Te Ture Whaimana establishes significant commitments for HCC and HUD supports the inclusion of restrictions in the District Plan to the extent they are necessary to meet these commitments.

Te Ture Whaimana is a listed qualifying matter under section 77I. This means that the requirements of section 77J must be met for it to be justified, but not those of 77L which are necessary for non-listed matters. In contrast, impacts on infrastructure (where there is no direct impact on the river) are not a listed matter and restrictions for this purpose would require additional analysis to meet the more stringent requirements. The council has not attempted to meet the section 77L, clearly intending to justify the overlay on the need to manage impacts on the river.

In summary, if water network failure has a genuine impact on the river, then restrictions can be justified if they are sufficiently tightly focused. Such restrictions would ideally enable development to proceed where there are no constraints or these can be mitigated, and would cease to have an effect once infrastructure investment had occurred.

In putting in place such restrictions, it is important that evidence be tested thoroughly, as measures would not be costless. HCC has highlighted that these restrictions would result in increased greenfields development to offset the reduction within current urban areas. This would result in a range of negative impacts, particularly resulting from longer commute times and the loss of productive soils.

Across a number of documents, HCC has indicated that the purpose of the overlay is to restrict development to certain areas. This could be contrary to section 77I, meaning the restrictions are unjustified, if not based on the impact of the river alone. To that end, HUD has reviewed the overlay and has identified a number of features that suggest it may not be appropriately designed:

- In the General Residential zone, development above a net density of one unit per 200m^2 would trigger an infrastructure assessment. This could encourage lower density development and generally could be construed as a density standard.

- It only includes certain areas where the council has indicated it would prefer more limited development. It does not cover the CBD, greenfield or commercial/industrial zones. This appears to conflict with the purpose of the overlay.
- The proposed provisions for the capacity assessment could be clearer regarding what is required with reference to local and trunk capacity. The provisions could be better focused on managing effects on the River rather than just testing wider infrastructure pressures, which, as outlined above, can not be justified if these do not impact the river.

HUD requests that the overlay be carefully considered by the panel and changes, if required, are made to bring overlay into compliance with section 77I. It may be appropriate, for example, to have more tightly focused (i.e. limited) measures that cover the whole city and are better aligned with the purpose of the overlay, rather than the current proposal in the specific areas. For instance, if hydraulic neutrality was achieved by a development there is unlikely to be any effect on the Waikato River. HUD considers that the panel should carefully consider the need and evidence for the overlay.

Relief Sought

HUD seeks the following decision on the Proposed Plan:

- That the matter raised in Table 1 is addressed.

Hearings

HUD wishes to be heard in support of its submission. If others make a similar submission, HUD will consider presenting a joint case with them at a hearing.

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Table 1: Requested Plan Change 12 amendments

Provision	Reason for Submission	Relief Sought
Break requests up into thematic sections		
Infrastructure overlay	HCC has indicated that the purpose of the overlay is to restrict development to certain areas. This could be contrary to section 77I, meaning the restrictions are unjustified, if not based on the impact of the river alone.	Review the infrastructure overlay and only restrict the intensification requirements of the NPS-UD and the application of the MDRS to the extent necessary to achieve the purpose of the overlay and bring overlay into compliance with section 77I.