HAMILTON CITY COUNCIL PROPOSED PLAN CHANGE 12

Submission on behalf of Peter John Findlay and Donna Margaret Findlay

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: Peter John and Donna Margaret Findlay

This is a submission on the following proposed plan or on a change proposed to the following plan (the proposal):

Proposed Plan Change 12 (Enabling Housing Supply) to the Operative Hamilton City District Plan

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

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

- **Objectives, policies, rules, and methods relating to Chapter 4 residential zone**
- **Specific rules in the High Density Residential Zone**
- **Objectives, policies, rules, and methods relating to Chapter 23 subdivision**
- **Financial contributions Chapter 24 and Appendix 18**
- **Assessment criteria in Appendix 1.3**

Our submission is:

We own properties at 1140 Victoria Street and 1 Gwynne Street adjoining Victoria St and Boundary Road that are currently zoned Residential Intensification. Plan Change 12 proposes to rezone them High Density.

We are concerned that some matters introduced through PC12 go beyond the scope of the Resource Management Act (RMA) directing the inclusion of Medium Density Residential Standards (MDRS) provisions in district plans. Some of the rules in the Operative Hamilton City District Plan (ODP) relating to the residential zones have been made more onerous through the amendments proposed in PC12. This is reflected in the proposed new and amended assessment criteria, the proposed new rules relating to permeability and tree cover, and the financial contributions Chapter 24 and Appendix 18.

Provision	Support or oppose	Reasons for submission	Relief sought
Chapter 4.1 Residential Zones Objective 4.1.2.1	**Oppose in part**	Determining whether development gives effect to the Vision and Strategy – Te Ture Whaimana o Te Awa o Waikato is vague and uncertain and the section 32 evaluation for the policies, rules, and methods does not demonstrate how this objective will be achieved through the PC12 provisions. There is a lack of technical evidence to support the assumptions regarding the effects of intensification on three waters infrastructure and hence on the River.	Reconsider and amend wording of objective and provide section 32 evaluation which demonstrates how the objective will be achieved.
Chapter 4.1 Residential Zones Policy 4.1.2.1a	**Oppose in part**	Use of the term 'avoid' is too directive.	Delete the word 'avoid' and replace with 'manage'.
Chapter 4.1 Residential Zones Policy 4.1.2.1c	**Oppose in part**	As above. There is a lack of technical evidence which demonstrates how density, building size, site permeability, and earthworks interrelate and affect the health and wellbeing of the Waikato River, taking into account the high amenity values and the imperative to achieve density targets in the high density areas, particularly within the 800m walkable catchment of the CBD.	Provide evidential basis for the policy, and reconsider and amend.
Chapter 4.1 Residential Zones Policy 4.1.2.2a	**Oppose in part**	Policy 4.1.2.2a ii is unclear and subjective. The requirement that development must '*Take into account and will not compromise the infrastructural needs of anticipated future development*' creates uncertainty for an application. What constitutes 'anticipated future development' and	Replace 'anticipated future development' with 'planned and permitted future development within the same catchment' or similar.

		where it is located is not clear.	
Chapter 4.1 Residential Zones Policy 4.1.2.2e	**Oppose in part**	It is not feasible in all circumstances to 'avoid' potential effects such as noise from arterial transport corridors and state highways.	Amend by deleting the word 'avoid' and replacing with 'minimise'.
Chapter 4.1 Residential Zones Policy 4.1.2.5a	**Oppose in part**	Poor drafting makes the policy difficult to understand.	Amend so the policy is clear and concise. Replace 'must encourage' with 'enable'. Delete 'offsetting' and replace with 'mitigates'
Chapter 4.1 Residential Zones Policy 4.1.2.6a	**Oppose in part**	Poorly drafted and overly complex policy wording.	Amend so that the policy is pragmatic, clear and concise.
Chapter 4.1 Residential Zones Policy 4.1.2.6c	**Oppose in part**	Poorly drafted, overly complex. This policy reads like rule standards.	Amend so that the policy is clear and concise.
Chapter 4.1 Residential Zones Policy 4.1.2.6e	**Oppose in part**	Use of the word avoid is too directive in the context of residential development.	Delete 'avoid unreasonable' and replace with 'minimise adverse'.
Chapter 4.1 Residential Zones Policy 4.3.2.2b ii	**Oppose in part**	The policy is uncertain and poorly drafted.	Amend to provide clarity as to meaning and delete the word 'avoid'.
Chapter 23 Rule 23.7.1d	**Oppose**	The rule requires a minimum lot size of 1200m2, which forces subdivision into large lots, presumably for large apartment buildings or other comprehensive multi-unit development. This is inconsistent with the objectives and policies of achieving a variety of housing types, which rely on a variety of lot sizes.	Delete the 1200m2 minimum lot size and replace it with 300m2.
Chapter 23 Subdivision Rule 23.7.2(4)	**Oppose in part**	The rule is unclear. It reads as follows: *4. The fee simple subdivision of any allotment with no existing residential unit, where a subdivision application is accompanied by a land use application that will be determined concurrently if the applicant for the resource consent can demonstrate that: i. It is practicable to construct on every allotment within the*	Amend Rule 23.7.2(4) to read as follows or similar wording: *4. The fee simple subdivision of any allotment with no existing residential unit, where a subdivision application is accompanied by a land use consent application that will be determined concurrently and no vacant allotments are created.*

		proposed subdivision, as a permitted activity, a residential unit; and *5. Each residential unit complies with the rules within the Residential Chapter and;* *6. No vacant allotments are created.* The submitter assumes that this rule is intended to implement the MDRS requirement that no minimum lot size can be set if an applicant obtains a concurrent subdivision/land use consent. However, if an applicant is required to apply for land use consent, this means there is no permitted land use activity and therefore the applicant will not be able to demonstrate that the building is permitted. Similarly, point 5 is unclear. An applicant should not be required to comply with all residential chapter rules when an application is being lodged for a site-specific consent to carry out the activity in question.	
Chapter 24 and Appendix 18 – Financial Contributions	**Oppose in part**	PC12 financial contribution amendments appear to go beyond the scope of an IPI. Where these do not relate directly to residential intensification the amendments should be subject to the standard RMA Schedule 1 process. While Chapter 24.1 Background states that a financial contribution is for a different purpose to a development contribution, there is no clear	Amend chapter 24 and Appendix 18 to ensure the financial contribution provisions provide clear explanation of the basis on which they are required and how these are distinguished/differentiated from DCs.

		differentiation between what is 'effects' mitigation (FCs) and what is providing for growth (DCs). The section 32 evaluation does not provide an evidential basis of the effects of intensification that are required to be mitigated and therefore subject to FCs. Chapter 24.2.1 General purpose of financial contributions refers to effects associated with a list of matters which should be funded through DCs – three waters/transport network improvements; three waters/transport capacity upgrades; parks/reserves/open space network enhancement/improvement. It is not clear why and how FCs are required to give effect to Te Ture Whaimana. It is unlawful to 'double dip' across FCs and DCs. However, the FC chapter reads like a DC policy, despite the statement at 24.4.2 that costs 'shall exclude any infrastructure works otherwise funded via Council' DC policy. There is a need to provide an explanation of how the relationship between FCs and DCs will be managed and implemented. The s32 evaluation does not address alternative sources of funding for infrastructure upgrades such as the Nature in the City Programme or	

		the Infrastructure Acceleration Fund. These sources should be considered alongside FCs to avoid "double dipping".	
Appendix 1.3 Assessment Criteria: 1.3.3 Restricted Discretionary, Discretionary, and Non-Complying Assessment Criteria	**Oppose in part**	Many of the assessment criteria are difficult to understand and to implement. For example, use of the term 'as a rule of thumb' and criteria posed as questions. Furthermore, numerous criteria are presented as rule standards, which calls into question the status of any activity as being restricted discretionary. Such criteria include, but are not limited to, the following: B2 Context: B2c.; B2e; B2i.; Public Realm B3b.; B3c.; B3d.; B3e., B3f.; Site Layout B4a.; B4c.; Access and Circulation: B5b.; B5c.; B6 External Appearance; B8 Waste Management, particularly B8c.; C Character and Amenity, particularly: C1 b.; C1 d.; C19 Te Ture Whaimana; G Transportation, including G1a.; G1g.; G1h.; Integrated Transport Assessment G4.; G6.; G9j.; G16; G19; G20; J8; J9; JJ	Redraft assessment criteria to ensure these are clear, certain, and capable of assessment and implementation by applicants, plan users, and processing planners. Use consistent terminology such as 'The extent to which...'
Rule 4.4.3.1e Activity Status Table	**Oppose**	The non-complying activity status for single residential units is inconsistent with Objective 4.4.2.1 which *Provides for high density living that contributes to housing choice in areas with good accessibility to the Central City via public transport and active modes* and Policy 4.4.2.1 which is to *Enable a variety of housing typologies, including multi-*	Change activity status to permitted

		storey apartment buildings. This objective and the policy give effect to Policy 1 of the National Policy Statement-Urban Development. The non-complying activity status is likely to discourage development, meaning such sites may remain vacant or underutilized, again in conflict with the overall purpose of the NPS-UD and PC 12 to increase the supply and the range of housing.	
Rule 4.4.3.1f Activity Status Table	**Oppose**	The discretionary activity status for duplexes is inconsistent with Objective 4.4.2.1 which *Provides for high density living that contributes to housing choice in areas with good accessibility to the Central City via public transport and active modes* and Policy 4.4.2.1 which is to *Enable a variety of housing typologies, including multi-storey apartment buildings.* There is no reason for the High Density Residential zone to have a more onerous activity status than other zones for duplexes.	Change activity status to permitted
Rule 4.4.5.1a Density	**Oppose**	The maximum net site area of 100m2 per unit is unnecessarily restrictive and inflexible, leading to duplexes only on very small sites. This is inconsistent with enabling a variety of housing types.	Delete Rule 4.4.5.1a
Rule 4.4.6.8 Pruning and maintenance of trees in an SNA that overhang the boundary	**Oppose**	The maximum amount of foliage that can be removed per calendar year is 15%. This is too restrictive if the tree is close to the boundary and could significantly reduce the development potential of High Density sites, particularly as many	Amend Rule 4.4.6.8 by replacing 15% with 25%.

		sites in the zone adjoin the Waikato Riverbank.	
Rule 4.4.5.2a Building Coverage	**Oppose**	The 60% maximum site coverage is insufficient to achieve the density anticipated in the High Density Zone, particularly for sites such as the submitters that adjoin a major transport corridor with the Central City zone across the road.	Amend site coverage to 80%.
Rule 4.4.5.3 Permeable Surface and Landscaping	**Oppose**	The 20% permeability requirement is too high for a High Density Zone and will reduce the opportunity to achieve the intensity of development intended in the zone, given the zone covers relatively small areas.	Amend minimum permeability to 10%
Chapter 4.4 High Density Residential Zone	**Oppose in part**	The PC12 provisions do not adequately recognize that parts of the High Density Zone interface or are adjacent to the Central City zone and major arterial roads where the environment is affected by the mixed use commercial nature of the surroundings and the impacts of traffic flows. These sites could accommodate some limited mixed use to encourage use of land that is less suited to residential use because of these interface issues.	Identify sites at the interface with Central City zones and/or impacted by traffic from major arterial roads and provide for offices up to 1000m^2 GFA per site, restaurants and cafes and ancillary offices as Restricted Discretionary activities, and other provisions of the Central City Zone considered appropriate and relevant.
Chapter 4.4 High Density Rule 4.4.5.7	**Oppose**	The fencing standards are inappropriate given the location of the zone near the CBD in areas where there are issues of security and crime. Front fences are essential for security purposes.	Amend 4.4.5.7 to specify that fences of up to 1.8m height are permitted on all boundaries.

I seek the following decision from the local authority:

Make any amendments and consequential amendments to give effect to the specific relief sought in the table above, including such amendments as required to the rules, objectives, policies, assessment criteria, reasons, provisions, definitions, other matters, maps, and any schedules/appendices of the proposed plan to give effect to, support or reflect any part of it.

Such other relief that will achieve the same or a similar outcome.

Such other or consequential relief to address matters outlined in this submission and to give full effect to sections 5, 6, 7 and 32 of the RMA 1991 and otherwise promote the sustainable management purpose of the Act.

I wish to be heard in support of my submission.

Signature of submitter

Dated: 30 September 2022

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