

BEFORE THE INDEPENDENT HEARING PANEL

UNDER the Resource Management Act 1991

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

MEMORANDUM OF Gordon Chesterman, 243 River Road, Claudelands, Hamilton.

DATED 19 JULY 2024

MAY IT PLEASE THE HEARING PANEL:

This memorandum is filed by Gordon Chesterman, 243 River Road, Claudelands, Hamilton.

1. I respectfully request a waiver for all interested and affected parties allow to them file a further submission on proposed Plan Change 12 to the Operative Hamilton City District Plan (PC12).
2. The Council amendments to PC 12 include an array of changes. This includes but is not limited to rezoning areas from General Residential Zone (GRZ) to Medium Density Residential Zone (MDRZ) for example, between the Central City, Five Cross Roads, Chartwell and the Hospital, Boundary Road and Hukanui, and modifications to proposed residential zoning areas.
3. It is unclear if these residents, property owners and others in the wider community are aware of the changes now put forward in the revised plan change, given there has been no formal variation to the Plan Change and what appears to be limited (if any) public consultation by Council. My discussions have indicated limited awareness of the PC 12 amendments.
4. The panel has accepted out of time further submissions from Sir William and Lady Judi Gallagher (17 July 2024).
5. While acceptance of additional further submissions from the wider community will be some 19 months out of time, the following reasons support the Hearing Panel granting the waiver and accepting additional further submissions:
 - (a) The length of the delay is reasonable given the unique context of PC12;
 - (b) Accepting the further submission does not prejudice any party and in fact is in the interests of natural justice;
 - (d) The further submission does not disturb the steps already taken in PC12.
6. Clause 98(3) of Schedule 1 to the RMA gives the Hearing Panel discretion to accept or reject any late submission and the Panel has previously stated in its second minute of the Hearing Panel dated 25 August 2022 at [2](c)

Late submissions should be determined on their merits in terms of the matters stated for consideration in s.37A RMA. Late submissions that are properly on the plan change and that arrive in sufficient time for other parties to take notice of and be able to respond as necessary or as appropriate, should generally be accepted.

7. PC12 was notified as an intensification planning instrument (IPI) under the intensification streamlined planning process (ISPP). The Council is required to incorporate the medium density residential standards (MDRS) into every relevant residential zone. Qualifying matters are the only way for the Council to make the MDRS less enabling of development than the MDRS.
8. The approach to residential intensification has changed since PC12 was notified. The Council's evidence filed on 26 June 2024 has tried to pre-empt a possible law change to allow territorial authorities to opt out of the MDRS. For example, the Council has sought to disapply the MDRS (or parts of the MDRS) from the General Residential Zone without reliance on a qualifying matter. The Council's ability to seek outcomes less enabling than the MDRS without relying on a qualifying matter is an entirely new element of PC12.
9. These and other changes made by the Council are significant. No longer is residential intensification to be shared equally. The Council now seeks those to change the zoning of properties, reducing densities in certain areas while increasing it in others. There is significant departure from its current and historical zoning and land uses in some cases. Ability for people to file further submissions will provide the wider community the opportunity to present evidence to consider the residential intensification implications and support their neighbours and the broader community (represented by original submitters).
10. This waiver application comes after receipt of the Council's proponent evidence on 26 June 2024, in accordance with Hearing Panel Direction #23.
11. Rather than prejudicing any party, acceptance of the further submission is in the interests of natural justice. The Council's change in approach to PC12 to respond to political intentions has impacted the participation of Hamilton's citizenry (and others) in PC12:

- a) Submitters rightly confined the scope of their submissions according to the mandatory nature of the MDRS and the limited availability of qualifying matters; and
- b) Some people may have considered whether or not to make submissions on PC12, but been dissuaded to do so because the MDRS restricted the relief available. In other words, people previously understood some intensification of residential zones was a *fait accompli*. Under the Council's new approach, this no longer seems to be the case and the scope for relief is much greater.

12. There may be many people in the second category above. The Council's changed approach has now given people reason to become involved in PC12 that did not previously exist. The delay in filing a further submission should be seen in that light.

13. Despite its relatively long time since initial notification, PC12 is in fact not particularly well advanced, nor would any of the steps taken to date be disturbed by the Hearing Panel accepting additional further submissions, in fact it would meet the ethos of the RMA around public participation.

Timetable

14. I seek adjurgments to the hearing timetable, to allow for the Preparation of evidence. Many parties were unaware of the changes until very recently and were unaware of the waiver provided to Sir William and Lady Judi Gallagher (on 17 July 2024). As a result, evidence preparation has not commenced, and parties are still working through the statements of Council experts and the array of PC 12 amendments now proposed.

15. An extension of two weeks to Wednesday, August 7, 2024 ,for further submissions would allow submitters to potentially contact or arrange expert and or provide their own statements, based on the substantial changes and complex nature of these changes.

DIRECTIONS SOUGHT

1. An extension to response time above to two weeks to Wednesday 7 August.

2. Confirmation that lay submissions and evidence of the new affected parties to be included in the process as late Further submissions.

On behalf of:

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