

**BEFORE THE 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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**MEMORANDUM OF COUNSEL FOR HAMILTON CITY COUNCIL**

**Dated 28 February 2024**

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**MAY IT PLEASE THE HEARING PANEL**

1. This memorandum is filed on behalf of Hamilton City Council (**HCC**).
2. In August 2023, the then Minister for the Environment granted HCC's request for an extension to the statutory deadline for decisions to be made on Plan Change 12 (**PC12**). In accordance with the extension request, HCC is now required to issue its decision on PC12 by 20 December 2024. In reliance on that extended deadline, the hearing into submissions on PC12 has been deferred, with no hearing date currently allocated.
3. In its reporting memorandum of 20 October 2023, HCC advised that it did not seek any procedural directions on PC12, preferring to await further clarity on the incoming Government's policy position on RMA reform and the future of the Medium Density Residential Standards (**MDRS**) provisions. In that memorandum, HCC signalled its preference to defer any hearing on PC12 until it had completed public notification of Proposed Plan Change 14 (Flood Hazards) (**PC14**). HCC also signalled that the Strategic Growth and District Plan Committee would be meeting on 27 February 2024 to confirm its ongoing intentions in respect of PC12.
4. In Panel Direction #21 dated 20 October 2023, the Hearing Panel directed HCC to provide a report by 28 February 2024.

**PC14**

5. Council staff have commenced pre-notification consultation on PC14 with key stakeholders. This will be ongoing during March 2024, following publication of depression area data in HCC's GIS Flood Viewer in early

March.

6. Council staff are due to report to the Strategic Growth and District Plan Committee on the outcomes of pre-notification consultation in June 2024. On that basis it is now anticipated that public notification of PC14 will occur by the third quarter of 2024.

## CENTRAL GOVERNMENT POLICY UPDATE

7. In a speech to the Wellington Chamber of Commerce yesterday, the new Minister for Housing and RMA Reform announced details of its 'Going for Housing Growth' policy. Under this policy the Government will encourage Councils to continue to progress their Intensification Planning Instruments (IPI) to enable more housing but introduce the flexibility to 'opt out' of MDRS where Councils can demonstrate they have 30 years of development capacity available. Referring to the MDRS tools as 'too blunt and one-size-fits-all', the Minister set out the Government's intention to allow Councils greater discretion over where higher density is enabled, stating:<sup>1</sup>

So there is quite a bit of legal complexity to work through – but the direction of travel is very clear. We want councils to continue with their plan changes to enable more housing and the optionality of the MDRS will be conditional on Councils proving 30 years of development capacity is available in their area.

8. The Minister also indicated that the Government would be making changes to the National Policy Statement on Urban Development (**NPS-UD**) to enable more mixed-use development.
9. The necessary legislative reform to give effect to these policies will be

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<sup>1</sup> Speech to the Wellington Chamber of Commerce delivered on 27 February 2024; [Speech to the Wellington Chamber of Commerce | Beehive.govt.nz](#)

introduced in the coming months. The announcement indicated that the Minister will report back to Cabinet by March 2024 with further detail on a comprehensive work programme to advance these RMA reforms.

## **HCC RESPONSE TO POLICY ANNOUNCEMENT**

10. Based on this policy announcement, HCC intends to review its application of the NPS-UD and the extent of MDRS zoning enabled under PC12 as notified, and prepare a report on its housing development capacity over the next 30 years.<sup>2</sup> This will inform whether HCC may refine its PC12 approach to giving effect to the NPS-UD, and whether and to what extent it may seek to 'opt out' of the previously mandatory MDRS requirements.
11. The Strategic Growth and District Plan Committee has requested a further report from HCC staff on these and all other PC12 issues at the 11 April 2024 committee meeting. After that meeting HCC will then confirm its position regarding the ongoing implementation of MDRS zoning provisions and the NPS-UD policy requirements via PC12.
12. Depending on the outcome of the committee meeting, HCC may require that the MDRS zoning provisions and NPS-UD policy responses set out in the notified version of PC12 be updated before proceeding further to a hearing.

## **NEXT STEPS**

13. Against this background of uncertainty, HCC does not seek any Panel directions regarding evidence exchange or expert conferencing at this stage.

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<sup>2</sup> Elements of that assessment have been commenced already under the Housing and Business Assessments required under the National Policy Statement – Urban Development.

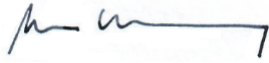
14. HCC does however seek to ensure that hearing time is allocated for PC12 during 2024 and is concerned that if a decision on the timing of a hearing is deferred for much longer, this may not be possible due to busy and conflicting schedules.
15. Accordingly, HCC respectfully requests that the Panel confirm availability for a hearing during early September 2024. This will at least secure the hearing time and enable HCC to work up a proposed evidence and conferencing timetable working back from that date. HCC would then propose a timetable in its next reporting memorandum of 26 April 2024.

#### **DIRECTIONS SOUGHT**

16. Accordingly, HCC seeks the following directions:
  - a) A one week hearing will be held in early September 2024 with the dates to be confirmed by the Panel;
  - b) HCC is required to prepare a set of draft timetable directions addressing all procedural matters including the circulation of any revised PC12 provisions, and the timing of evidence exchange and expert conferencing ahead of a September 2024 hearing;
  - c) HCC is required to provide a further reporting memorandum by 26 April 2024 setting out its:
    - i. Position regarding any updated MDRS zoning provisions it seeks to pursue via PC12; and
    - ii. Proposed pre-hearing timetable as required under direction

(b) above.

Dated 28 February 2024

A handwritten signature in blue ink, appearing to be 'L F Muldowney' or similar, written over a light blue rectangular background.

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**L F Muldowney / S K Thomas**  
Counsel for Hamilton City Council