

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

STATEMENT OF EVIDENCE OF DENZIL GOVENDER

(STRUCTURE PLANS, CENTRAL CITY AND ROTOTUNA TOWN CENTRE)

Dated 26 June 2024

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INTRODUCTION

1. My full name is Denzil Govender.
2. I hold the position of Senior Planner within the Urban and Spatial Planning Unit of Hamilton City Council (**HCC**).
3. I hold a Bachelor of Technology in Town and Regional Planning from Durban University of Technology. I am an Associate member of the New Zealand Planning Institute.
4. I have 14 years of Local Government planning experience, two of which practiced in New Zealand. I have working knowledge of the Resource Management Act 1991 (**RMA**) including plan change related matters.
5. I have been involved in Plan Change 12 (**PC12**) since inception and am familiar with its underpinnings and overall direction taken by HCC.

CODE OF CONDUCT

6. My role in preparing this evidence is that of a policy planner. I am familiar with the Code of Conduct for Expert Witnesses (Environment Court Practice Note 2023) and although I note this is a Council hearing, I agree to comply with this code. The evidence I will present is within my area of expertise, except where I state that I am relying on information provided by another party. I have not knowingly omitted facts or information that might alter or detract from opinions I express.

SCOPE OF EVIDENCE

7. The purpose of this evidence, presented on behalf of HCC is to:
 - a) Provide an overview of Operative District Plan (**ODP**) provisions relating to:

- i. Structure Plans (Chapter 3 and Appendix 2);
 - ii. Central City (Chapter 7 and Appendix 5); and
 - iii. Rototuna Town Centre (Chapter 3, 13 and Appendix 7).
 - b) Discuss the changes made to the relevant chapter provisions under PC12.
 - c) Discuss the appropriateness of the provisions in light of sound planning principles particularly the changes sought to align the ODP with the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (**HSAA**) and the National Policy Statement on Urban Development (**NPS-UD**).
 - d) Highlight what I consider to be the key issues raised through submissions and further submissions and recommend changes to the PC12 provisions where appropriate.
 - e) Provide responses to relevant chapter submissions which are set out in **Appendix B** – Response to submissions.
8. This evidence is structured as follows:
- a) Summary of evidence;
 - b) PC12 Background;
 - c) Chapter Purpose and PC12 provisions;
 - d) Key Submissions and Relief Sought;
 - e) Recommended changes to notified provisions; and

- f) Conclusion.
9. In order to inform my evidence, I have reviewed the relevant plans and strategies for Hamilton City and the wider region. I have taken into consideration the background to PC12, s32 technical reports, submissions and further submissions, as well as the evidence filed by submitters in the initial hearing held in February 2023.

EXECUTIVE SUMMARY

10. My evidence provides a brief background to the overarching intent of PC12 in response to the NPS-UD and HSAA which require Tier 1 Councils to change district plan provisions to achieve greater levels of housing intensification.
11. The scope of my evidence covers three Chapter topics and their relevant appendices within the District Plan i.e., Structure Plans, Central City and Rototuna Town Centre.
12. I have outlined the main purpose of the chapters in its operative form followed by key changes proposed through PC12. Overall, the proposed provisions integrate with the existing framework to achieve the intent of NPS-UD and HSAA.
13. The regional importance of the Central City is featured in statutory and non-statutory documents which align and support its development. The Waikato Regional Policy Statement (**WRPS**) recognises Hamilton Central at the apex of the centre's hierarchy¹ reflecting its significance. The Central City Transformation Plan², amongst others, identifies the need to promote investment that encourages sustainable activity.

¹ WRPS (2018). 6D – Future Proof tables. Table 6-4.

² HCC (2021). Central City Transformation Plan - Hamilton Kirikiriroa 2021 – 2051.

14. I mention main submission areas relevant to chapter topics and make reference to key submissions. A thorough analysis of submissions is detailed in the format of a themes and issues report set out as **Appendix B**.
15. I conclude by referring to **Appendix B** – Response to submissions document which includes recommended changes to all three chapter topics for consideration.
16. The track change version of the recommended changes is reflected in **Appendix A** – Officers’ Recommended PC12 Plan Provisions.

BACKGROUND

17. In response to HSAA, HCC is required to make changes to its district plan to incorporate Medium Density Residential Standards (**MDRS**) and give effect to Policy 3 of the NPS-UD.
18. The primary purpose of PC12 is to implement the changes required by the NPS-UD and HSAA. These changes are intended to accelerate the supply of housing by enabling greater housing intensification by way of amended district plan provisions.
19. I rely on strategic planning evidence produced by Dr Mark Davey to set out the approach taken by HCC to achieve NPS-UD and HSAA directives and to provide statutory overview of PC12.
20. There are a number of relevant non-statutory documents³ that place the Central City Zone at the heart of the region and identify its success and future residential intensification as critical to shaping the region’s growth, identity and economic success.

³ s.32 - Appendix 3.1 Relevant statutory provisions, planning instruments, strategies, and plans.

21. The Hamilton-Waikato Metropolitan Spatial Plan, Future Proof, Central City Transformation Plan and successful delivery of the Infrastructure Acceleration Fund align regarding the Central City's future residential and commercial intensification as key to growth in the region.

ODP PURPOSE AND PC12 PROVISIONS

Structure Plans

22. The Structure plan chapter provides objectives and policies as well as guiding principles for any future structure plans which are predominantly within greenfield areas. These plans set out the development concept for longer-term growth and the likely extent of future infrastructure provision.
23. When consent is required for development within a Structure Plan area, the proposal must consider chapter provisions which aim to achieve a sustainable and integrated urban environment.
24. Changes to the Structure Plan Chapter have been proposed through PC12 to align the Structure Plan areas with MDRS. The following key changes are proposed:
- a) Since their inclusion in the ODP, the use of Comprehensive Development Plans (**CDP**) and Land Development Plans (**LDP**), which affect residential developments, has been found to be *ultra vires*⁴ and therefore PC12 proposes to remove the LDP and CDP provisions within the Ruakura, Rototuna and Te Awa Lakes Structure Plan areas.
 - b) Align the Rototuna Structure Plan with the amendments to Rototuna Town Centre which seeks to remove the residential component from the Rototuna Town Centre Zone.

⁴ *Queenstown Airport Corporation Limited & Ors v Queenstown Lakes District Council* [2014] NZEnvC93 and *Auckland* [2016] NZEnvC56 and NZEnvC65.

- c) The maps associated with the Rototuna and Rotokauri Structure Plan have also been amended to reflect the changes in the zoning and removal of landscape character areas as well as proposed changes to the residential zoning within these areas.

Central City

25. The Central City chapter establishes the purpose, objectives, policies, and rules for this zone which reflect the intent for the Central City to be the prime commercial centre of the City. The framework also recognises the City Centre as a hub for civic, cultural, social, and recreational activities while also acknowledging the importance of residential activities in the Central City.
26. The following changes are proposed through PC12 to meet the requirements of the HSAA and NPS-UD:
 - a) Changes to the Central City chapter to ensure alignment with other relevant District plan chapters;
 - b) Unlimited heights in the Central City;
 - c) High Density within walking distance of the Central City;
 - d) Increasing building height within an approximately 800m walkable catchment of the Central City to 26m;
 - e) Amending the height in relation to boundary, storage areas, public interface and outlook area controls to better align with the HSAA requirements and Residential Zone provisions; and
 - f) Removing the height controls and amending the minimum density.

27. The Central City provisions proposed through PC12 seek to implement direction from the NPS-UD with regard to enabling development within and surrounding centres. The above changes are likely to encourage development with development rules in place to safeguard its sustainability.

Rototuna Town Centre

28. The purpose of the RTC in its current ODP form is a mixed-use development that aims to provide the local community with easy access to various goods and services. It includes a mix of activities to cater to the daily needs of the community.
29. District Plan provisions are in place to ensure that the Centre is well-designed and comprehensively developed, with quality living, working, and recreational environments. The current zone provisions enable the Centre to serve as a commercial and community focal point.
30. The following changes are proposed through PC12:
- a) The CDP component, regarded as *ultra vires*, is removed to enable development as per Policy 3 of the NPS-UD.
 - b) In order to incorporate MDRS, the residential precincts within the Rototuna Town Centre are removed and replaced by residential zones, this is reflected by updating Figure 7-1 boundary in Appendix 7.⁵
 - c) Objectives, policies, and rules within the Chapter have been amended to reflect the removal of CDP and the residential precincts while supporting intensification.

⁵ Appendix F – Rototuna Town Centre boundary.

- d) Aligning the height in relation to boundary, outdoor living and service area, and storage area controls with the HSAA requirements and Residential Zones provisions.
31. PC12 also aligns the height in relation to boundary, outdoor living and service area, and storage area controls associated with the two mixed use areas within the Rototuna Town Centre with the HSAA requirements to proposed Residential chapter provisions.

SUBMISSIONS

Structure Plans

32. The majority of submissions received from active developers are generally supportive of the PC12 Structure Plan provisions as these changes seek to enable greater development within these areas by removing restrictive CDP and LDP rules.
33. Submissions that seek amendments to Structure Plan rules to ensure better plan administration has been accepted to ensure consistent and clear interpretation of the Plan.
34. Concern about the absence of Mana Whenua freshwater values and aspiration within the Structure Plan chapters has been received. This submission is addressed in **Appendix B** which ensures that the Strategic Framework chapter provides the link between the ODP and Mana Whenua relationships, values, aspirations, roles and responsibilities with respect to an area.
35. Recommended changes to PC12 provisions are detailed in the response to submissions **Appendix B** under the Structure Plan theme which considers Issue 1 – Structure Plans (General), Issue 2 – Rotokauri SP, Issue 3 – Ruakura SP and Issue 4 – Te Awa Lakes SP.

Central City

36. Submissions received are generally supportive of the PC12 Central City provisions that seek to maximise benefits of intensification. More than half of submission points support, or support in part, provisions to better enable more intensive levels of residential development.
37. Concerns put forward by submitters seek to amend/improve objectives, policies, activity status and specific standards within the Central City.
38. Careful consideration has been applied to residential changes within the Central City given its strategic importance not only to Hamilton, but to the region. The Central City is seen as critical to shaping the region's growth, identity and economic success.
39. I agree with certain submitter relief sought and have made recommendations as explained in **Appendix B**. These relate, but are not limited, to minimum floor area provisions, Height in Relation to Boundary and amendments to the activity status table.
40. Recommended changes to the PC12 provisions are detailed in the response to submissions **Appendix B** under Central City themes and issues. The recommended changes take into consideration relief sought by submitters, better plan administration and improved interpretation of the Central City chapter.

Rototuna Town Centre

41. Submissions received seek better integration of the Town Centre to the surrounding area and to enable greater development by amending PC12 provisions related to the chapter.

42. Kāinga Ora and major landowners within the Town Centre, although generally supportive of CDP removal, seek further amendments to the performance standards and Concept Plan respectively to enable more development.
43. After careful consideration of the submission points received, no recommended changes to the notified Rototuna Town Centre PC12 provisions via submissions are recommended.

RECOMMENDATIONS

44. **Appendix B** responds to all submissions and further submissions relevant to the above-mentioned chapters which are grouped in a themes and issues format.
45. Covered in the response to submissions is an analysis of grouped submission points by describing the issue, linking the specific submission and further submission points, providing an accept or reject rationale and finally, suggesting recommended changes.
46. The Rototuna Town Centre Concept Plan incorrectly includes two areas of residentially zoned land which is not consistent with the zoning proposed in PC12. As a result, a minor alteration to the Rototuna Town Centre Concept Plan boundary is recommended to reflect consistency with the zoning plans as shown in the diagram below and accurately represent the Rototuna Town Centre Concept Plan boundary. The recommended changes were not identified through a submission and therefore is not addressed in **Appendix B**.



CONCLUSION

47. More than 60% of submission points across all three chapter topics support, or support in part, the notified PC12 provisions and ultimately the overarching intent of the plan change to enable greater intensification.
48. Submissions were received from the development community seeking to fine tune notified provisions for better interpretation of the plan and to safeguard future development potential.
49. The rezoning of non-residential areas to residential areas is considered to be outside the scope of PC12.
50. Kāinga Ora's position on increased building heights and walkable catchments is noted and provided for through the PC12 provisions allowing unlimited building heights in the Central City however, in the case of the Rototuna Town Centre, the current proposed height limit of 15m for the centre is appropriate in achieving the NPS-UD and MDRS. The current zoning of medium density residential within a 400m walkable catchment to the Rototuna Town Centre also aligns with Policy 3(d) of the NPS-UD being of the appropriate building height and density of urban form

commensurate with the level of commercial activity and community services.⁶

51. All submissions related to chapter topics have been taken into consideration and captured in **Appendix B** which includes a themes and issues analysis followed by recommended changes to the PC12 provisions.
52. The proposed track changes to provisions are captured in **Appendix A – Officers’ Recommended Amendments to the PC12 Plan Provisions**.

Denzil Govender
26 June 2024

⁶ NPS-UD (2022). Policy 3d. *within and adjacent to neighbourhood centre zones*.

APPENDIX A – Officers’ Recommended Amendments to PC12 Provisions

A full set of the recommended amendments to provisions is available on HCC’s external PC12 web page:

<https://hamilton.govt.nz/property-rates-and-building/district-plan/plan-changes/plan-change-12/>

APPENDIX B - Response to Submissions