IN THE MATTER of the Resource Management Act 1991(RMA)

AND

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

JOINT WITNESS STATEMENT (JWS) IN RELATION TO:

3 Waters and PLANNING (1)

4th and 5th May 2023

Expert Conferencing Held on: 4th and 5th May 2023

Venue: Online

Independent Facilitator: Marlene Oliver

Admin Support: Cassidy Armishaw

1 Attendance:

1.1 The list of participants is included in the schedule at the end of this Statement.

2 Basis of Attendance and Environment Court Practice Note 2023

2.1 All participants agree to the following:

(a) The Environment Court Practice Note 2023 provides relevant guidance and protocols for the expert conferencing session;
(b) They will comply with the relevant provisions of the Environment Court Practice Note 2023;
(c) They will make themselves available to appear before the Panel;
(d) This statement is to be filed with the Panel and posted on the Council's website.

3 Matters considered at Conferencing – Agenda and Outcomes

3.1 **Context: Overview of approach taken to qualify infrastructure capacity constraints – Jackie Colliar**

Jackie provided an overview of the key matters presented in her evidence at the Strategic Hearing in February 2023. Jackie Colliar also provided some "real world" examples of

network capacity constraints and performance issues identified in the Traffic Light Assessment report

Jackie Colliar noted that the Traffic Light Assessment (TLA) included in her evidence at the Strategic Hearing and outlined in this conferencing describes the approach taken to demonstrate that there are existing infrastructure capacity challenges which will be further compounded by further greenfield development and infill and intensification if unmanaged which includes not having clear and committed infrastructure investment programmes.

Jackie Colliar noted that the policy and associated plan drafting in PC12 in response to infrastructure capacity challenges are outside of her area of expertise.

3.1.1 **All experts agree** that there are infrastructure capacity challenges in Hamilton and that these can vary across the city and can be different for the three services.

The experts also agree that urban growth does need to be managed in recognition of these infrastructure limitations and in recognition of the statutory framework in particular the TTWM. A suite of tools, including infrastructure investment, the district plan, bylaws, connection approval processes can be used to manage the effects of urban growth and infrastructure demands.

3.1.2 **Phil Jaggard's comments**

Phil Jaggard raised that the wastewater modelling results included as part of the traffic light assessment undertaken does not show the effect of funded infrastructure upgrades to service growth or replace aging assets. Therefore, the modelling results may show constraints that may never eventuate if the infrastructure required to address those constraints are implemented. Noting that the water supply modelling did include funded and planned infrastructure upgrades. In addition, no modelling results were provided for the existing scenario for current population for comparative purposes.

Phil Jaggard noted that intensification and redevelopment can result in positive stormwater improvements. Noting that PC12 introduces city wide controls on stormwater and does not limit such controls to the infrastructure overlay area raises a question as to whether stormwater should be removed from the reasons for introducing the infrastructure overlay.

Phil Jaggard noted that plan enabled capacity does not in itself result in growth.

Phil Jaggard notes that in the traffic lights assessment there is a criteria indicating a change from FW2 to FW3. Phil Jaggard requests further information on the basis of Council's decision that FW3 fire fighting requirements is required. Phil notes that the table below from the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008 document indicates that FW2 is appropriate for residential development.

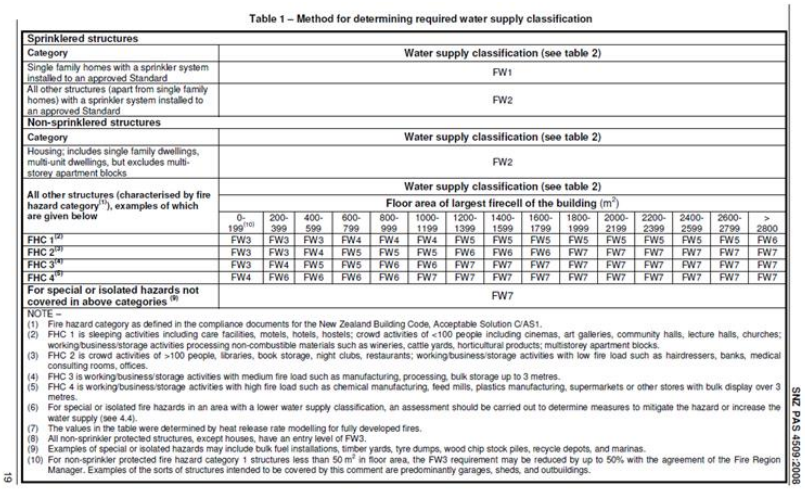

Table 1 – Method for determining required water supply classification

Sprinklered structures														
Category	Water supply classification (see table 2)													
Single family homes with a sprinkler system installed to an approved Standard	FW1													
All other structures (apart from single family homes) with a sprinkler system installed to an approved Standard	FW2													
Non-sprinklered structures														
Category	Water supply classification (see table 2)													
Housing; includes single family dwellings, multi-unit dwellings, but excludes multi-storey apartment blocks	FW2													
All other structures (characterised by fire hazard category[5]), examples of which are given below	Water supply classification (see table 2)													
	Floor area of largest firecell of the building (m^2)													
	0-199[10]	200-399	400-599	600-799	800-999	1000-1199	1200-1399	1400-1599	1600-1799	1800-1999	2000-2199	2200-2399	2400-2599	2600-2799	> 2800
FHC 1[2]	FW3	FW3	FW3	FW4	FW4	FW4	FW5	FW5	FW5	FW5	FW5	FW5	FW5	FW5	FW6
FHC 2[3]	FW3	FW3	FW4	FW5	FW5	FW5	FW6	FW6	FW6	FW7	FW7	FW7	FW7	FW7	FW7
FHC 3[4]	FW3	FW4	FW5	FW5	FW6	FW6	FW7	FW7	FW7	FW7	FW7	FW7	FW7	FW7	FW7
FHC 4[5]	FW4	FW6	FW6	FW6	FW6	FW7	FW7	FW7	FW7	FW7	FW7	FW7	FW7	FW7	FW7
For special or isolated hazards not covered in above categories [6]	FW7														

NOTE –
(1) Fire hazard category as defined in the compliance documents for the New Zealand Building Code, Acceptable Solution C/AS1.
(2) FHC 1 is sleeping activities including care facilities, motels, hotels, hostels; crowd activities of <100 people including cinemas, art galleries, community halls, lecture halls, churches; working/business/storage activities processing non-combustible materials such as wineries, cattle yards, horticultural products; multistorey apartment blocks.
(3) FHC 2 is crowd activities of >100 people, libraries, book storage, night clubs, restaurants; working/business/storage activities with low fire load such as hairdressers, banks, medical consulting rooms, offices.
(4) FHC 3 is working/business/storage activities with medium fire load such as manufacturing, processing, bulk storage up to 3 metres.
(5) FHC 4 is working/business/storage activities with high fire load such as chemical manufacturing, feed mills, plastics manufacturing, supermarkets or other stores with bulk display over 3 metres.
(6) For special or isolated fire hazards in an area with a lower water supply classification, an assessment should be carried out to determine measures to mitigate the hazard or increase the water supply (see 4.4).
(7) The values in the table were determined by heat release rate modelling for fully developed fires.
(8) All non-sprinkler protected structures, except houses, have an entry level of FW3.
(9) Examples of special or isolated hazards may include bulk fuel installations, timber yards, tyre dumps, wood chip stock piles, recycle depots, and marinas.
(10) For non-sprinkler protected fire hazard category 1 structures less than 50 m^2 in floor area, the FW3 requirement may be reduced by up to 50% with the agreement of the Fire Region Manager. Examples of the sorts of structures intended to be covered by this comment are predominantly garages, sheds, and outbuildings.

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SNZ PAS 4509:2008

3.2 **<u>Policy approach to capacity constraints – David Mead</u>** outlined the approach taken in PC12 in recognition of the infrastructure constraints outlined in item 1 above. A key element of the Council's approach is the infrastructure constraint overlay (ICO). Areas that are not included in the ICO are considered to be priority areas where development is enabled in line with the underlying zoning and where the consenting pathway is easier. The Council will prioritise infrastructure upgrading outside of the ICO. The spatial identification of stage 1 (areas outside of the ICO) assists the Council to focus investment and to have certainty regarding where growth and development is likely to occur. Areas included in the ICO have development restricted or delayed, noting that a plan change would be required to remove any parts of the ICO. Council intends to review the ICO every three years as part of its LTP process.

3.2.1 David Mead is of the opinion a planning response in addition to the engineering responses is required to manage the infrastructure implications of MDRS/NPSUD development. David noted there are mechanisms outside of the Plan, such as the connections policy, bylaws and engineering/connection approvals which will also form part of the toolbox to manage infrastructure capacity. Phil questions whether this is a duplication of processes and approval requirements?

3.2.2 It is understood that the density limits in the Overlay were set by planners and not by engineers. David noted that this was to help manage cumulative impacts prior to infrastructure upgrades. Refer to section 32 report (Plan Change 12 – Enabling Housing: Part 3 Other Appendices Appendix 3.4 Capacity Modelling). The density of 1 unit/200m2 reflects the duplex typologies enabled in the operative plan. One unit per 150m2 reflects the apartment typologies in the operative plan.

3.2.3 Jackie Colliar explained that the infrastructure requirements to service the level of development enabled by the current operative plan have not been planned for or funded. The Council Engineers would have preferred that the density limits were lower than currently enabled in the Operative Plan due to potential infrastructure capacity challenges, associated environmental effects and affordability of the investment needed to address those challenges.

3.2.4 It is recognised that stormwater runoff is not yield specific, but related to impervious coverage. Phil Jaggard questions why the ICO is required to manage stormwater via a density limit. Phil questions, in terms of stormwater, what additional benefit the

Infrastructure Overlay provides over the existing rules for a three-lot development (Permitted vs RDA).

3.2.5 David Mead noted that if reliance is to be placed on the on site stormwater rules proposed in PC12 then it is important that those rules are fit for purpose. Those rules do not seek to address all catchment wide stormwater issues.

3.2.6 Raewyn Simpson noted that in considering the separation of stormwater from the infrastructure overlay that integrated management of three waters needs to be considered. A number of pieces of legislation require integrated management. This includes te Ture Whaimana, national policy statement for freshwater management, iwi management plans, regional policy statement. The three waters need to be considered holistically.

3.2.7 It was noted by David Mead that stage one (the Central City, walkable catchment, CBD North) sits outside the infrastructure overlay. The stage one area has known infrastructure constraints and has limited funding available to undertake the necessary upgrades to support growth. The Council intends to prioritise the servicing upgrades required in the stage one area and has recently secured approximately $110m from the Infrastructure Acceleration Fund to contribute to addressing some of the 3 Waters servicing challenges in the Stage 1 area.

3.2.8 Mark Davey noted that the area included in stage one is supported as a priority area for development by a number of statutory documents including the RPS, Future Proof. Mark Thode supports intensification being enabled near centres. Council considered stage one best reflects policy three of the NPSUD response to intensification.

3.2.9 David Mead, Mark Davey, Emily Buckingham, Clinton Cantrell, Raewyn Simpson, Jackie Colliar support the ICO conceptually.

3.2.10 David Mead, Mark Davey, Emily Buckingham acknowledge that further discussion and refinements to the PC12 ICO provisions may be beneficial and can be part of future expert conferencing.

3.2.11 Jackie Colliar noted that the policy responses and subsequent planning provisions proposed to manage infrastructure capacity challenges are outside of her area of expertise. She supports the ICO conceptually on the basis that it may assist with focusing development spatially in the city and which assists with prioritizing infrastructure investment programmes and funding.

3.2.12 Phil Jaggard and Mark Thode at this stage do not support the ICO and consider that it should be deleted from PC12. They consider that amendments to the plan change 12 provisions and refinement of infrastructure assessment requirements could be achieved without an ICO and would provide an effective and efficient process for developers and Council. Phil Jaggard considers that for example that the infrastructure demands for a three unit development are the same regardless of the site size. Therefore, he considers the density limitations included in the ICO under PC12 are not necessary.

3.3 **Information requirements for Three Waters Infrastructure Capacity Assessments – David Mead and Clint Cantrell**

3.3.1 David Mead confirmed that Table 1.2.2.5b information required for each type of Three Waters Infrastructure Capacity Assessment – is the proposed provision in PC12 that relates to this agenda item.

3.3.2 Phil Jaggard, Fraser McNutt, Clinton Cantrell expressed concerns that the table lacked clarity and certainty such that it would be very difficult for applicants to provide the information being sought and in addition it was not clear how the Council would process such applications.

3.3.3 Craig Sharman proposed an amendment to Table 1.2.2.5b to incorporate explicit mention to fire fighting water supply within the information requirement. Suggested wording was provided by Craig – refer to attachment A to this JWS provided by Craig for consideration by Council staff.

3.3.4 It was agreed that David Mead will coordinate a review and redrafting of the table taking into consideration the discussion that was held in expert conferencing as indicated in paras 3.3.2 and 3.3.3 above.

3.3.5 Jackie Colliar and Raewyn Simpson noted Council have committed funding to deliver a new web based viewer to display relevant information to assist with meeting the proposed information requirements which would be available to assist the process. An improved process is also being developed to assist with making the access to relevant information easier. The web based capacity assessment viewer is due for initial delivery in early 2024. For larger developments Council has established processes for infrastructure capacity assessments including how developers can procure services to utilize council water and wastewater models where that is required.

Clint Cantrell provided background to the draft proposed connection approval process that will be applied through the Three Waters Reform once the new entities will be created. The purpose of providing this background was to provide context of the alignment between water reform legislation requirements and Councils proposed policy.

3.4 **Phil Jaggard confirmed** that he wishes to discuss provisions 25.13.4.2A Stormwater Residential zones, and 25.13.4.5 Water Conservation Measures. **Mark Davey confirmed** that these and other rules relating to 3 waters and residential development will be considered in further expert conferencing being scheduled in June.

3.5 **The following item is for information: 3 Waters connection policy – role and function – Raewyn Simpson** outlined key mechanisms the Council uses to operate its 3 Waters network in alignment with legislation and to meet compliance with the Council's resource consents. The two mechanisms are Council's three bylaws and three waters connection policy. These two mechanisms work together. The bylaws are made under the Local Government Act and serve to meet the requirement for effective and efficient operations. It is recognised that the current policy could be improved. The policy and associated processes are under review to ensure that there is enough clarity for managing requests to connect to the network. This will include the criteria that will be used for assessing

applications and how those applications are processed. Additional tools will be developed to provide consistent and robust methodology for assessment and decision making and for transparency these tools include a GIS mapping tool and web viewer.

4 PARTICIPANTS TO JOINT WITNESS STATEMENT

4.1 The participants to this Joint Witness Statement, as listed below, confirm that:

(a) They agree that the outcome(s) of the expert conferencing are as recorded in this statement; and
(b) They agree to the introduction of the attached information – Refer to para 3.3.3 above; and
(c) They have read the Environment Court's Practice Note 2023 and agree to comply with it; and
(d) The matters addressed in this statement are within their area of expertise; and
(e) As this session was held online, in the interests of efficiency, it was agreed that each expert would verbally confirm their position to the Independent Facilitator and this is recorded in the schedule below.

Confirmed online 4th and 5th May 2023

EXPERT'S NAME & EXPERTISE	PARTY	EXPERT'S CONFIRMATION REFER PARA 4.1
Emily Buckingham – P	Hamilton City Council	Yes
Raewyn Simpson – P	Hamilton City Council	Yes
David Mead – P	Hamilton City Council	Yes
Clint Cantrell – Eng	Hamilton City Council	Yes
Jackie Colliar – Eng	Hamilton City Council	Yes
Paul Bowman – P	Hamilton City Council	Yes attended for 4th May only
Mark Davey – P	Hamilton City Council	Yes
Fraser McNutt – P	Pragma, Tainui Group Holdings, Hounsell Holdings	Yes attended for 4th May only
Craig Sharman – P	Fire and Emergency New Zealand	Yes
Nicola Black – Eng	Te Awa Lakes	Yes attended for 5th May only
Mark Thode – P	Kainga Ora	Yes
Phil Jaggard – Eng	Kainga Ora	Yes

JWS Attachment A

Appendix 1.2 Information requirements

1.2.2.5a Three Waters Infrastructure Capacity Assessments

This requested relief relates to Fire and Emergency New Zealand's submission point 36 which sought an amendment to 1.2.2.5a to include the specific requirement to assess firefighting water supply capacity in accordance with the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008 as part of the Three Waters Infrastructure Capacity Assessment.

Two options to satisfy the relief sought are proposed below and demonstrated in the table below.

- Option 1 – amend 1.2.2.5b(ii) to include new text in brackets – '*(including an assessment of firefighting water supply capacity in accordance with the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008)*'.

- Option 2 - Introduce a new information requirement: '*xi. An assessment is provided to demonstrate the extent of compliance with firefighting water supply capacity in accordance with the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008, including any measures necessary to remedy any identified deficiencies.'*

Black underline is the new provision introduced via PC12.

Red underline is relief proposed by Craig Sharman on behalf of Fire and Emergency New Zealand at expert conferencing 4 May 2023.

1.2.2.5a Three Waters Infrastructure Capacity Assessments
As part of an assessment of environmental effects the information required for a Three Waters Infrastructure Capacity Assessment is:

Table 1.2.2.5b: Information required for each type of Three Waters Infrastructure Capacity Assessment

Information to be provided	Local network (sites not subject to the Three Waters Infrastructure Capacity Overlay)	Local and strategic networks infrastructure capacity (sites subject to the Three Waters Infrastructure Capacity Overlay)
i. The anticipated water, wastewater and stormwater demands generated by the proposed activity	✔	✔
ii. Council confirmation of available Three Waters infrastructure capacity to appropriately service the proposal [Option 1] (including an assessment of firefighting water supply capacity in accordance with the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008).	✔	✔
iii. Where there is insufficient capacity to appropriately service the proposal, details of: a. Consented development elsewhere in the catchment b. Programmed Council works c. Possible mitigation measures both within a development area or site, as well as within the relevant network surrounding the development site or area d. Financial contributions towards catchment wide upgrades		✔
iv. Outcomes of consultation with Council as asset owner	✔	✔
v. Details of what measures can be taken to reduce demands in areas of limited capacity. Where the assessment determines that there is insufficient off-site infrastructure capacity to accommodate the development, the assessment shall identify and describe the measures to be taken by the development to mitigate its effects on the safe and efficient functioning of public, three waters infrastructure.		✔
vi. Details of what on-site, water-sensitive stormwater management techniques are proposed and associated demands on down stream infrastructure.	✔	✔
vii. Details of the water demand (flow and pressure) and water sources.	✔	✔

viii.	Where the water demand of the proposal is greater than 15m3 of water per day, details of a programme explaining how the proposal intends to reduce its water consumption to achieve that level.		✔
ix.	Information on how wastewater (including trade waste) will be managed to minimise any impacts on the reticulated network.		✔
x.	A list of measurable targets and performance indicators to allow the efficient and effective monitoring of the proposal's compliance with any conditions arising from the Three Waters Infrastructure Capacity Assessment.		✔
xi.	[Option 2] An assessment is provided to demonstrate the extent of compliance with firefighting water supply capacity in accordance with the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008, including any measures necessary to remedy any identified deficiencies.	✔	✔

The information required in a Three Waters Infrastructure Capacity Assessment shall be in such detail as appropriate to the scale and significance of the potential effects that the activity may have on the environment, and only if relevant to the proposal.

Note

1. *The extent and degree of assessment needed for a Three Waters Infrastructure Capacity Assessment may be greater when without an existing Integrated Catchment Management Plan.*
2. *As an outcome of the Three Waters Infrastructure Capacity Assessment, conditions may be applied to the development. These may include financial contributions, monitoring and the requirement for the installation of specific water sensitive techniques.*