

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 DR MARK NAIRN DAVEY

Dated 20 December 2022

LACHLAN MULDOWNEY

BARRISTER

P +64 7 834 4336 **M** +64 21 471 490

Office Panama Square, 14 Garden Place, Hamilton

Postal PO Box 9169, Waikato Mail Centre, Hamilton 3240

www.lachlanmuldowney.co.nz

INTRODUCTION

1. My full name is Mark Nairn Davey.
2. I am the City Planning Unit Manager / Chief Planner for Hamilton City Council (**HCC**). I have held the role since December 2021.
3. I hold a PhD in Urban Planning and a Bachelor of Planning (First Class Hons) from the University of Auckland. I am a full member of the New Zealand Planning Institute. In my current role as City Planning Unit Manager for HCC, I lead a team of planners tasked with setting the land-use policy for the City. Myself and my team are also heavily involved in sub-regional planning through Future Proof.
4. My previous relevant experience includes Manager Land Use Policy and Planning for Auckland Transport where I was involved in land-use and transport integration with a focus in southern Auckland. I was involved in transport and planning projects in Manukau City Centre, Drury, Pukekohe, Papatoetoe and the wider south-west future urban growth areas. Prior to this role, as Growth and Analytics Manager for Waikato District Council, I was involved in the districts most recent District Plan review, establishing the zoning framework across the district as s42 author, analysing the supply and demand of residential and employment land throughout the district, and providing evidence on the strategic direction (Chapter 2) of the Waikato Proposed District Plan. During the plan review I led the spatial and urban design analysis to inform the introduction of a new medium density residential zone in the main towns and the development of town centre concept plans for Pokeno, Ngaruawahia and Huntly.
5. My PhD research investigated urban planning in Auckland under the new Auckland Council and the introduction of spatial planning. As part of this I undertook extensive research into the history of urban growth

management and regional planning in Auckland. I have also been involved in research teams investigating the efficacy of planning frameworks in terms of delivering housing intensification in Auckland.¹ I have undertaken international research into urban growth management, affordable housing and transit orientated developments in North America. I have published a range of articles, book chapters, conference papers and research papers across these themes.

6. Relevant to Plan Change 12 (**PC12**), my PhD research uncovered insights regarding the long-run interface challenges in Auckland over the past 100 years between land-use, infrastructure planning and delivery and, infrastructure funding and financing. As a researcher on the Future Intensive study team in Auckland, we investigated a range of case study examples into medium density housing developments. We interviewed residents to understand their perceptions of living within these developments, assessed the types of amenities which supported and/or detracted from the market acceptability and delivery of higher density residential typologies, the locational and urban design attributes which make these successful, and the efficacy of the planning frameworks to support good medium density residential outcomes.

SCOPE OF EVIDENCE

7. The purpose of this evidence is to outline the strategic planning basis underpinning HCC's approach to the Resource Management (Enabling Housing Supply and Other Matters) Act (**HSAA**) as notified under PC12 to the Hamilton City Operative District Plan (**ODP**).
8. My evidence will be at a macro level. I will discuss the background to urban growth management and planning in Hamilton and the sub-region including Hamilton's recent history regarding urban intensification. This

¹ Future Intensive: Insights for Auckland's Housing (2012).

is of relevance both in terms of understanding the context and, how sub-regional planning initiatives are contributing towards objective 1 of the National Policy Statement for Urban Development 2020 (**NPS:UD**). I will also spend some time discussing the unique higher-order planning frameworks which exist in the Waikato and Hamilton, namely Te Ture Whaimana o Te Awa o (the Vision and Strategy for the Waikato River) (**TTW**). I will outline the implications this higher-order planning instrument has as a 'qualifying matter' on carrying out residential intensification under HSAA. In this context I will discuss the importance of where and how growth materialises. I will then briefly address two other qualifying matters, Historic Heritage Areas (**HHAs**) and flood hazards and their relationship with PC12 before discussing HCC's overall response to HSAA.

9. I will not specifically address any single submitter or submission point. I will leave that to later briefs of evidence and the s 42 authors to address at the substantive hearings scheduled for September 2023.

CODE OF CONDUCT

10. I have read the Environment Court Code of Conduct for expert witnesses contained in the Environment Court Practice Note 2014 and agree to comply with it. I confirm that the opinions expressed in this statement are within my area of expertise except where I state that I have relied on the evidence of other persons. I have not omitted to consider materials or facts known to me that might alter or detract from the opinions I have expressed.

EXECUTIVE SUMMARY

11. TTW is the overarching direction setting document for land use activities affecting the Waikato River. Under s 77I(c) of the Resource Management

Act 1991 (**RMA**) a territorial authority may make the Medium Density Residential Standards (**MDRS**) and the relevant requirements under policy 3 of the NPS:UD (**HSAA intensification requirements**) less enabling of development in order to accommodate as a qualifying matter, in this case, matters required to give effect to TTW (**TTW qualifying matter**). To give effect to TTW, adverse effects of development on, or associated with, three waters must be appropriately managed. Accordingly, the matter is the relationship between residential densities enabled by the District Plan, and the three waters infrastructure needed to service the densities directed under HSAA, so that the adverse effects stemming from that development are managed in a way that gives effect to TTW.

12. The evidence establishes that, if implemented unmodified, the HSAA intensification requirements would give rise to significant adverse effects on the Waikato River. If that occurs, HCC would be in breach of its statutory obligations with respect to the River under TTW. Accordingly, HCC has had to modify its implementation of the HSAA intensification requirements in PC12. Given HCC's obligations under TTW covers the entire City, this qualifying matter has a greater bearing on PC12 than others which also apply, such as flood hazards and historic heritage, which apply to specific sites in a more contained manner.
13. In accommodating the TTW qualifying matter in this context, HCC has proposed through PC12 to:
 - a) Apply an infrastructure overlay in the brownfield parts of the City (including centres), introduce density standards (permeable surface requirements and minimum lot sizes per unit), green policies (rainwater tanks, provision of trees, low-flow fixtures) and a requirement to undertake infrastructure capacity assessments for developments to assess if there is adequate network capacity.

- b) Introduce new financial contributions provisions which specifically seek to mitigate some of the adverse effects on the Waikato River and are invested in initiatives which achieve betterment.
 - c) Enable development within 'Stage 1' area which includes the Central City, walkable catchment and CBD North. Retain the green policies and limit the infrastructure capacity assessments to local network only (on the basis that over time the City will lead the investment into strategic infrastructure assets to service growth).
 - d) Adopt a connections approval process that includes an assessment of network capacity to determine whether an approval will be granted. This is underpinned by existing bylaws under the Local Government Act 2002.
14. While implementation of the modified HSAA intensification requirements will see a 24% reduction in market feasible supply over the long-term compared to if they were implemented unmodified, the quantum of market feasible supply remains 4.5 times greater than the total projected demand over the long term. As such, PC12 ensures sufficient supply of residential housing in Hamilton in accordance with the policy intent of HSAA while avoiding adverse effects on the Waikato River and achieving betterment as required by TTW.
15. More broadly, a concentrated approach to the enablement of higher density commensurate with infrastructure capacity and investment focused around the CBD better meets the primary objective of the NPS:UD with respect to creating well-functioning urban environments.

BACKGROUND

16. Hamilton City is the largest city in the sub-region with a population of

197,900 people as of June 2022². Hamilton is one of the fastest growing urban areas in New Zealand and is the fourth most populous. Over the last ten years, the City has grown by 33,000 people, 11,000 homes and 3,000 businesses. Hamilton currently has around 60,000 homes for around 180,000 people. Over the coming 50 years, this is projected to double to around 120,000 homes for about 310,000 people. National Institute of Demographic and Economic Analysis (**NIDEA**) projections indicate that this growth is set to continue for the foreseeable future (refer Figure 1). There are a number of factors contributing to the growth of Hamilton, including its strategic location in respect to Auckland and Tauranga, its strong economic base and relative ease to develop.

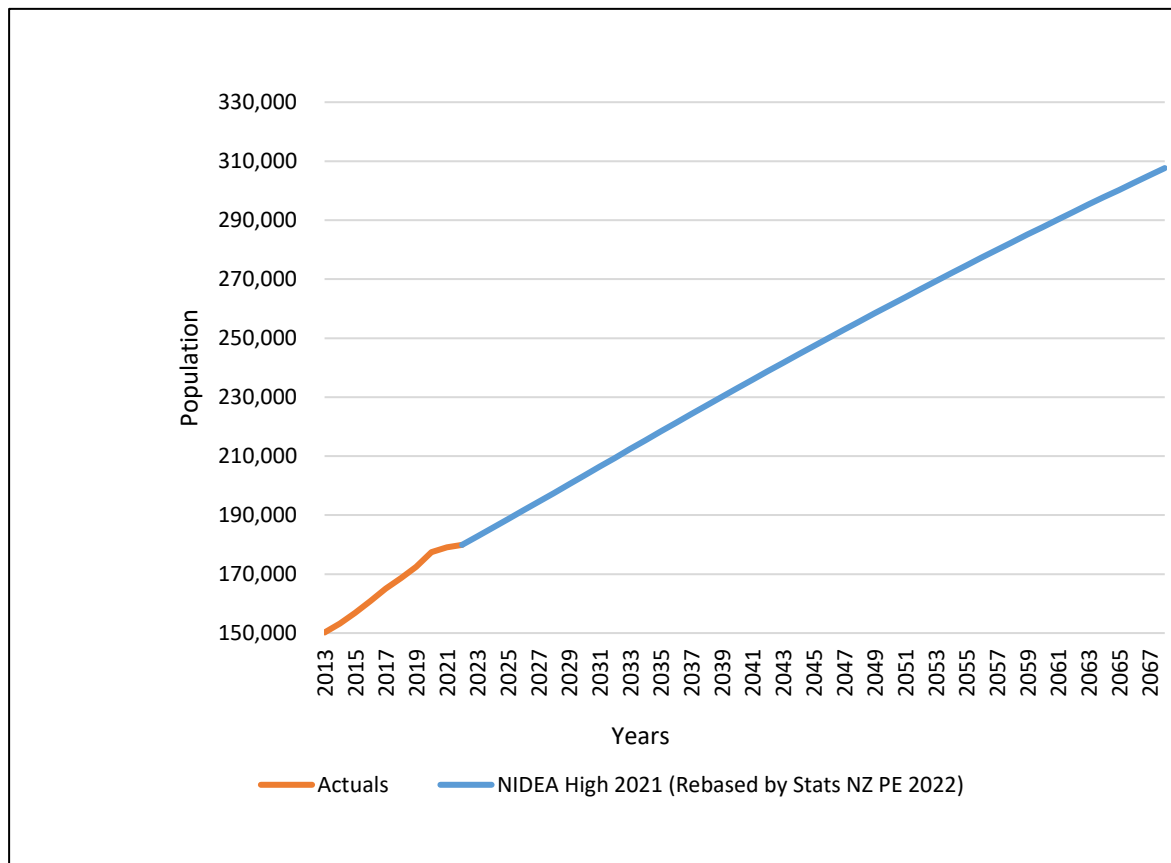


Figure 1: Hamilton City Population Projection: NIDEA 2021 (high)

17. While growth results in several benefits, it can also bring significant challenges for cities with regards to urban growth management. The key questions centre around the nature of the future urban form of these

² Statistics NZ.

cities to accommodate the growth, where and what type of houses and jobs are enabled, how these activities are serviced by three waters, transport and community infrastructure, the amenity created through the built form and how the various activities which these give rise to interact, function and co-exist to drive economic growth and provide for those who live, visit and do business within them.

18. Macro trends driving Hamilton's urban growth over the past half century was initially attributable to rural-urban migration as populations moved to larger centres seeking employment and services away from rural hinterlands and smaller towns and villages. More recently, Hamilton's growth has been driven by record rates of immigration, spill-over effects from Auckland, and declining mortality rates. In turn this has been supported by strong economic growth by way of job creation in the Hamilton and the Waikato sub-region.
19. It is therefore unsurprising that in the past decade, Central Government has turned its focus on policy seeking to improve the performance of urban areas like Hamilton given the proportion of the population which is urban, and the economic and social benefits from well-functioning urban centres. The basis for this is that urban centres are key drivers of economic output, the better they function, the better they perform economically.
20. The recent Central Government focus on urban centres has culminated in the Urban Growth Agenda. A key pillar of the Agenda is Resource Management Reform. More recently the Future for Local Government Review and Three Waters Reform have also emerged and will have a large influence on how New Zealand's urban centres function and respond to growth pressures. Meanwhile, a range of new policy instruments have been introduced guiding how cities can grow, including the NPS:UD, the National Policy Statement on Highly Productive Land (**NPS:HPL**) and HSAA. Against the backdrop of the 'housing affordability

crisis' and population growth, government policy under the NPS:UD and, more recently, HSAA has been focused on how urban centres can intensify residential activities to meet demand and improve housing affordability.

21. To support residential growth across New Zealand, the Government introduced the Infrastructure Acceleration Fund (**IAF**) in June 2021, a subset of the Housing Acceleration Fund (**HAF**) managed by Kainga Ora. The IAF was a contestable fund of \$1B for territorial authorities, iwi and developers to enable housing development. In November 2022 Hamilton City Council was awarded \$150.6M for transport and three waters investment into the central city to enable 4,140 homes. This is largest single grant under this funding scheme to be awarded anywhere in New Zealand, to unlock the greatest number of homes.

FUTURE PROOF: SUB-REGIONAL STRATEGIC PLANNING

22. It is important to consider Central Government's Urban Growth Agenda in light of the local urban growth management initiatives which date back to the late 2000s in the Waikato sub-region. The purpose of highlighting this history is twofold. First, the sub-region has a mature partnership and land-use plan for addressing urban growth-related issues in a cross-boundary manner. Second, this approach has manifested in intensification and urban containment policies on behalf of the territorial authority partners which has led to significant rates of residential intensification in Hamilton over the past decade.
23. Urban growth management in the sub-region, has been led by Future Proof since 2008 – representing a local acknowledgment that a more joined-up model was required, beyond what legislation and formal institutional arrangements provided for, to address the growth challenges being experienced.

24. The Future Proof partnership is broad and now comprises representatives from Ngā Karu Atua o te Waka, Waikato-Tainui, Tainui Waka Alliance, Waikato Regional Council, Waipa District Council, Waikato District Council, Hamilton City Council, Matamata Piako District Council, Waka Kotahi, Waikato District Health Board, Central Government (Ministry of Housing and Urban Development; Ministry for the Environment; Kainga Ora), Mana Whenua Kaitiaki Forum and Auckland Council.

25. The Future Proof Partnership and Strategy is a 30-year growth management and implementation plan specific to the Hamilton, Waipā and Waikato sub-region within the context of the broader Hamilton-Auckland Corridor and Hamilton-Waikato Metropolitan areas. The strategy provides a framework to manage growth in a collaborative way for the benefit of the Future Proof sub-region both from a community and a physical perspective. This sub-regional approach is needed to manage growth in a staged and coordinated manner and to address complex planning issues, especially cross-boundary matters. In the last two years, Future Proof has moved beyond a solely land use focus to look at transport and three-waters planning to support the land-use/settlement pattern. The key guiding principles under Future Proof are as follows:
 - a) Align the staging and timing of the settlement pattern with the partners' infrastructure and Long-Term Plan (LTP) investment plans.
 - b) Ensure that planning is integrated with infrastructure and funding decisions.
 - c) Consider Iwi aspirations: enhancing the health and wellbeing of the Waikato River in accordance with TTW, and iwi place-based aspirations;
 - d) Place the Waikato River at the heart of planning;
 - e) Encourage a radical transport shift to a multi-modal transport network shaped around where and how communities will grow;
 - f) Support a vibrant metro core and lively metropolitan centres
 - g) Put a strong and productive economic corridor at the heart of the

metro area;

- h) Create thriving communities and neighbourhoods including quality, denser housing options that allow natural and built environments to co-exist and increase housing affordability and choice;
- i) Grow and foster water-wise communities through a radical shift in urban water planning, ensuring urban water management is sensitive to natural hydrological and ecological processes.

26. Future Proof was an initial collaboration between HCC, Waipa District Council, Waikato District Council and Waikato Regional Council. The basis of its formation was:

- a) Community concerns about the lack of collaboration and leadership in the management of growth.
- b) Waka Kotahi NZ Transport Agency (**Waka Kotahi**) concerns about the lack of integrated land use and transport planning.
- c) An awareness of the need to inform the Waikato Regional Policy Statement and Waikato Regional Land Transport Plan.
- d) Significant growth rates in the sub-region.
- e) An increasing recognition of the Waikato region's role in the upper North Island economy, alongside the Auckland and Bay of Plenty regions.³

27. The first Future Proof Strategy was adopted on 30 June 2009. Embedded within the strategy were density targets for urban areas. The expectation was that the relevant partners would then implement the settlement pattern and density targets in their respective district and regional plans. This occurred throughout the 2010s. The decisions version of the Waikato Regional Policy Statement 2012 embedded the Future Proof settlement pattern and density targets requiring subordinate plans to

³ Refer: <https://futureproof.org.nz/about-us/history/>

give effect to it.

28. The Future Proof Strategy was later updated in 2017 and a wholly new strategy adopted in 2022. Future Proof has also fulfilled the Housing Business Capacity Assessments (**HBA**) reporting requirements for the sub-region required under the National Policy Statement: Urban Development Capacity 2016 and the more recent NPS:UD.
29. In the case of Future Proof, the iterations of the strategies have been through extensive consultation processes, including the latest 2022 Future Proof Strategy. The 2022 strategy included formal submissions, hearings, deliberations and decisions by the Future Proof Implementation Committee, a committee comprising nominated elected representatives from each partner council and relevant government ministers including the Minister of Housing and Urban Development, Minister of Local Government and the Minister of Transport.

Hamilton-Waikato Metropolitan Spatial Plan

30. The Hamilton-Waikato Metropolitan Spatial Plan (**HWMSP**) was a subset of the Future Proof Strategy and part of the government's Urban Growth Agenda. Its purpose was to set a long term, 100-year plan for how the Hamilton-Waikato metropolitan area would accommodate and manage growth over the next century with the aim of creating one of the most liveable places in New Zealand. A key aspect underpinning the development of the plan was conceptualizing the metro spatial plan area in a boundaryless manner, looking beyond the arbitrary territorial boundaries of HCC, Waipa District Council and Waikato District Council. The development of the strategy included a wide range of stakeholders from across multiple sectors, public and private, local and central government. The final plan was endorsed by Cabinet in May/June 2020 and approved by the Future Proof Implementation Committee in

September 2020.

31. The HWMSP was developed based on the growth scenario that would see the metropolitan area growing to a population of 500,000 with 70% of this growth into Hamilton and 30% into outer lying towns. The development of the plan was underpinned by the fact that the metro area is one urban system where development and resources are connected and are not limited by local government boundaries.
32. The strategy sets out a number of directives. Of particular relevance is:
 - a) A radical transport shift - a multi-modal transport network, connecting the metro area and facilitating a radical shift to using public transport through the establishment of a rapid and frequent public transport network shaped around where and how our communities will grow.
 - b) A vibrant metro core and lively metropolitan centres - growing Hamilton Central City as our civic, administrative, cultural and commercial metro core, alongside lively metropolitan centres, well connected by public transport and safe walking and cycling networks, where people can afford to live, work and play.
33. The plan then informed and was incorporated as part of the revised 2022 Future Proof Strategy, which in turn has been included in the Waikato Regional Policy Statement (**WRPS**) Change 1 notified on 18 October 2022.
34. Following the HWMSP, the Future Proof partners identified two key areas of focus in order to enable the plan to be achieved, being transport and wastewater. Work commenced on preparing business cases: the Hamilton-Waikato Metropolitan Spatial Plan Transport Programme Business Case (**MSP Transport PBC**), and the Waikato Sub-Regional Three Waters Strategic Business Case. The latter was followed by the Hamilton-Waikato Metropolitan Spatial Plan Southern and Northern Wastewater Business Cases.
35. The MSP Transport PBC recommended the development over-time of a

rapid transit network supported by micro mobility options. The indicative RTN network identified four rapid bus transit corridors, starting in the centre of Hamilton and running north to Te Rapa (**RT1**), south through Peacocke to the Airport (**RT2**), east to the University of Waikato and Ruakura (**RT3**) and, west through Frankton, Dinsdale and onto Rotokauri (**RT4**). The business case tested a range of land-use scenarios. The adopted scenario known as LUS2A was developed in response to the Emissions Reduction Pathway guidance realised by Government in 2021 and reflected increased levels of intensification (75%) in Hamilton City with a slowing of development in greenfield cells but included the completion of greenfield development currently in progress. This preferred land use relies on the need for density changes to committed greenfield growth cells to fully realise some of the transport, emission reduction and land use benefits identified in the recommended PBC programme. The viability of the proposed bus network including future bus rapid transit proposals network will be greatly improved through a focus on density around key nodes and corridors.

36. With regards to mode-share and vehicle kilometres travelled (**VKT**) reduction, the MSP Transport PBC modelling showed more intensive land use creates better mode shift and VKT reduction. The options that provide rapid transit, which would require some targeted intensification, perform even better. The modelling carried out in the MSP Transport PBC for the preferred land use scenario, LUS2A, showed a 37% carbon reduction, the only metropolitan centre in New Zealand being able to demonstrate and reduction in carbon emissions over 30-years.
37. Any roll-out of an RTN network will need to be timed and sequenced based on land-use and demand. It's important to bear in mind that growth/demand is the enabling factor in this equation, and growth is not infinite. Land-use controls have a critical role to play in terms of directing the type and nature of growth in to support certain outcomes. The MSP

Transport PBC tested various scenarios and found that a de-centralized approach to growth limits the viability of an RTN network.

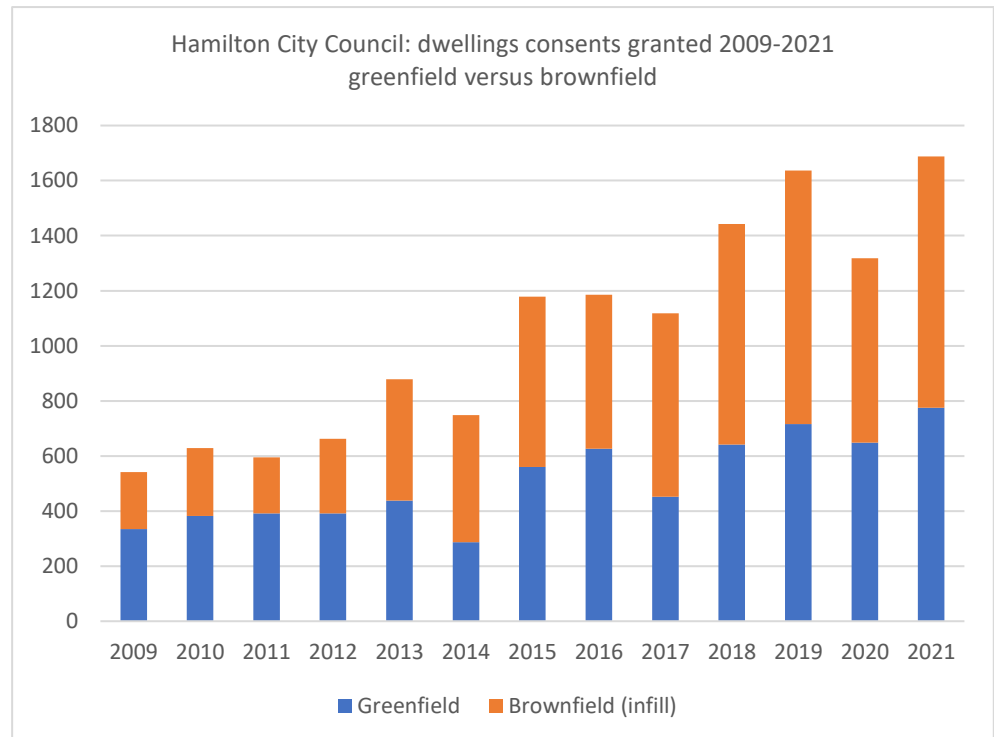
38. To support the delivery of a viable RTN network in a Hamilton-Waikato context, first, is the need to nurture the CBD as a centre and destination which generates high-levels of demand. The MSP Transport PBC worked on the basis that the CBD is a central civic and cultural core of the region, therefore all RTN routes must go through the CBD in order to support its vitality. The important factor was ultimately about the network providing reverse flow to provide balance in the network, for example two-way demand between other nodes, like Ruakura/University, Airport and Te Rapa.
39. For the central city to be the successful anchor of a future RTN network, requires on-going support of the central city to promote greater levels of development, a mix of employment, visitor attractions, services, amenities and residential activities ideally within a confined geographic area. This was the key premise of the MSP Transport PBC – hence why each RTN dissected the central city with the aim that the CBD becomes the focal point of an RTN network from which RTN corridors then expand out from. Sufficient population densities then need to be attained within walkable catchments of key nodes along a proposed route. This is critical in order to have sufficient patronage to make an RTN scheme viable along a given corridor. The development of RTN corridors and nodes also need to be sequenced to make the frequency of the RTN service viable.
40. The MSP Transport PBC was endorsed by all Future Partners and government agencies in 2022. The commitment on behalf of the Partners is that their up-coming 2024 LTPs will set aside funding to implement the MSP Transport PBC. Future Proof is now also investigating the most efficient organizational arrangements to deliver on the programme given it cuts across the roles of functions of various authorities.

41. The Future Proof land-use strategy, combined with the MSP Transport PBC means that the Waikato sub-region is the only metropolitan centre in New Zealand which has an agreed integrated land-use and transport strategy with broad-based approval and ministerial endorsement. This has been heralded as best-practice in New Zealand.

42. With regards to the wastewater business cases, for the north, it concluded that an enlarged Pukete Treatment Plant was the best long-term option. This would overtime take flows from the Waikato District, from the towns and villages of Ngaruawahia, Hopuhopu, Taupiri, Te Kowhai and Horotiu. This would see the decommissioning of the Ngaruawahia Treatment Plant which is nearing the end of its operational life and reaching capacity. The southern wastewater business case concluded the need for a wholly new southern plant near the airport which would overtime service southern Hamilton, including Peacocke, the Airport Precinct, Tamahere and Matangi. This would be supported by an upgraded Cambridge plant which would service Cambridge and Te Awamutu. The Southern Wastewater Treatment Plant is required to be operational within the next 5-years, with a three-stage development plan over the coming decades.

GROWTH PATTERNS IN HAMILTON

43. The emergence of higher density forms of living and in-fill redevelopment first occurred in Hamilton following the Proposed Hamilton District Plan 2001 which introduced residential intensification

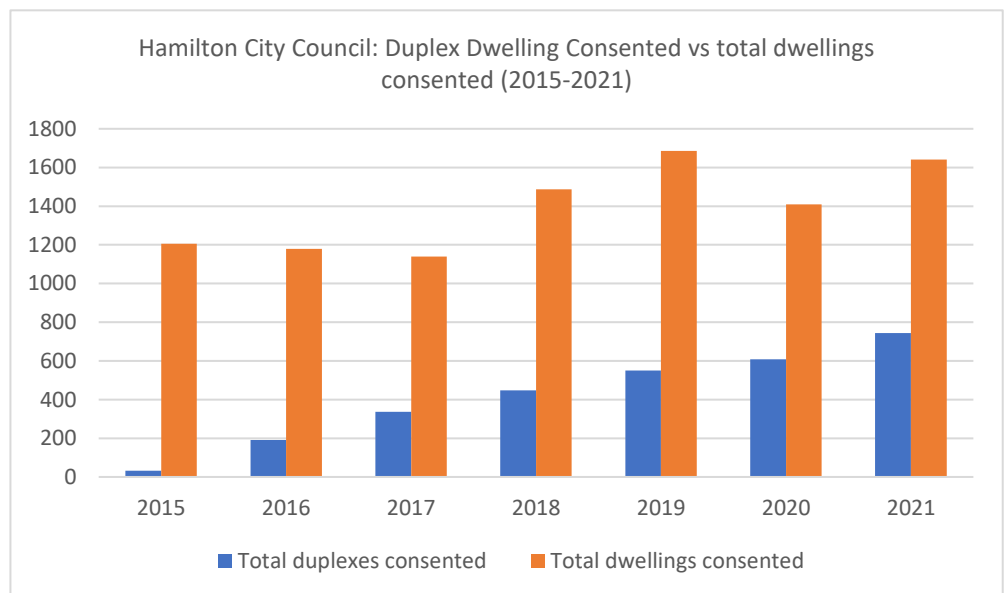


zones. The Proposed Hamilton District Plan 2012 maintained these residential intensification zones and added what is now referred to as the 'duplex policy', which since 2014, has led to in-fill duplex housing typologies across the general residential zones, with plan provisions allowing one unit per 200sqm of land area (as a restricted discretionary activity). These provisions combined, helped achieve the targets set down in the Future Proof 2009 Strategy. Since 2017 on average 55% of Hamilton's residential growth has taken place in brownfield locations as apartments or duplexes.

44. This shift to in-fill was also influenced by limited greenfield options being available to the market. During the late 2000s and 2010s Rototuna was the only greenfield growth cell of scale. From the late 2010s the northern part of Ruakura came online, called Greenhill Park. In the next decade

Peacocke and Rotokauri growth cells are expected to be infrastructure ready and zone enabled, supplying 7,000 and 5,500 homes respectively.

- 45. The widespread enablement across the general residential zone of duplexing has made infrastructure planning and investment very challenging as it has led to a lack of certainty as to where growth is likely to materialise. The Restricted Discretionary activity status and assessment criteria for duplexes relate to ‘design and layout’ and ‘character and amenity’, but not infrastructure.
- 46. When first introduced during the 2012 district plan review, the duplex provisions were not supported by any technically robust assessment of the ability to service potential demand, or the impacts of inadequate infrastructure arising from development occurring that was not aligned with infrastructure planning and investment. This is outlined in the evidence of Ms Colliar who explains the current three-waters network challenges with respect to servicing existing intensification enabled under the duplex policy.



- 47. When considering the future form and demand for housing in Hamilton and the sub-region, it is important to touch on the likely implications of the NPS:HPL to growth patterns. The NPS:HPL will place increased

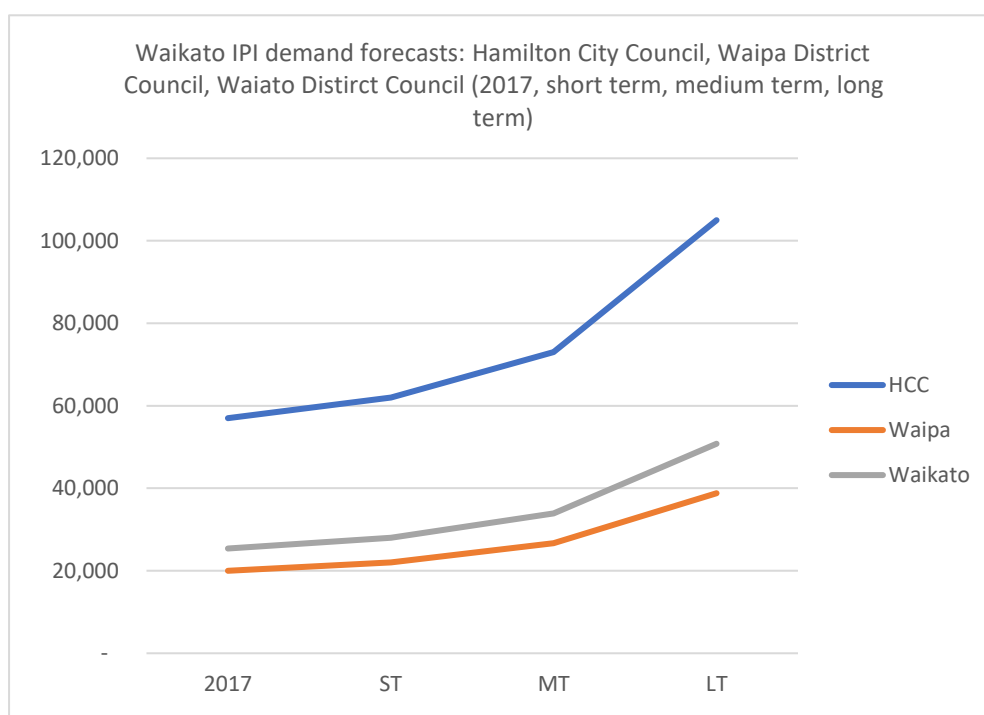
emphasis on intensification in order to accommodate future urban growth and as such it will play a key part in the future urban form of Hamilton and the urban growth of the sub-region.

48. The City and sub-region is surrounded predominantly by highly productive land (including LUC Soils 1-3). As such, the NPS:HPL will have the effect of further strengthening the concentrated and compact settlement pattern by protecting highly productive land from inappropriate use and development. The NPS:HPL will in effect place an urban containment or growth boundary around Hamilton and the outer lying towns. Overtime, this is likely to speed up the proportion of brownfield residential development over greenfield simply due to the new requirements for a stricter out of boundary assessment (as now required by Future Proof and the proposed Plan Change 1 to WRPS) of new residential greenfield supply options. Vancouver BC and Portland OR have had similar stringent rural protection policies in place for a number of decades, these have limited urban sprawl, created a very clearly defined urban-rural edge, and over time led to increased densities within the existing urban areas⁴.
49. Prior to Future Proof, the urban growth in Hamilton and the sub-region tended to favour more established urban expansion over intensification. Two key factors drove this. First, consumer demands for housing – generally consumers sought standalone houses reflecting a rural market. Second, the maturity of the housing market – the supply side/development industry was more predicated towards focusing on easier subdivision in the rural hinterland. Developers were accustomed to building standalone dwellings. Only in the last decade has this shifted towards duplex and higher density town-house typologies – an emerging trend seen elsewhere in urban centres outside of Auckland.

⁴ Ingram, G., Carbonell, A., Hong, Y., & Flint, A. (2009). *Smart growth policies: an evaluation of programs and outcomes*. Massachusetts, United States: Lincoln Institute of Land Policy.

Supply and demand

50. The 2017 the HBA by Market Economics prepared on behalf of Future Proof found Hamilton City had an estimated 57,000 dwellings as at 2017 compared with 25,400 in the Waikato and 20,000 in Waipa⁵. In 2017, the dwelling growth in Hamilton was projected to increase by an additional 5,000 dwellings in the short-term (to 2021), 11,000 additional dwellings in the medium-term (to 2026) and 32,000 additional dwellings in the long-term (to 2046). Based on the demand projections, Hamilton's proportion of growth over time decreases slightly while Waipa remains constant and Waikato increases slightly.



51. Focusing on residential commercially feasible supply in Hamilton (a subset of the larger plan enabled quantum) (refer Table 1 below), in the short-term (to 2021) it was found that there is commercially feasible capacity for around 11,000 dwellings within Hamilton City, 17,500

⁵ P.3. Market Economics. *Housing Development Capacity Assessment 2017 Future Proof Area – Waikato District, Hamilton City and Waipa District* (2018).

dwellings if redevelopment is taken into account. This rises to 21,000 dwellings in the medium-term (to 2026), 31,000 dwellings including redevelopment; and to 49,000 in the long-term (to 2046), 108,000 dwellings including redevelopment.

52. Overall, the 2017 HBA report found significant headroom between demand (plus the 20% competitiveness margin over the short and medium term and the 15% competitiveness margin in the long term), and the market feasible supply. The market feasible supply in the short and medium terms are approximately double the demand plus the competitiveness margin.
53. Under the 2021 HBA report findings, headroom between demand (plus the competitiveness margin) versus the commercial feasible supply remains across each time period, short, medium and long-term. This demonstrates that Hamilton City has been enabling sufficient market feasible housing supply through a mix of greenfield, in-fill and redevelopment options over the last two HBA reporting cycles across the three time periods, short, medium and long term.

Table 1: Comparison of market feasible supply in Hamilton (short, medium, long term) (source: Market Economics)

		Short term	Medium Term	Long Term
2017 HBA ⁶	Supply ⁷	11,000	21,000	49,000
	Demand ⁸	5,000	11,000	32,000
2021 HBA ⁹	Supply	18,800	23,600	30,400
	Demand	4,200	14,300	43,100
Unmodified HSA	Supply	82,200	136,000	233,400

⁶ Housing Development Capacity Assessment 2017 Future Proof Area – Waikato District, Hamilton City and Waipa District, Market Economics, 17 July 2018.

⁷ Excluding redevelopment capacity

⁸ Demand includes the competitiveness margin

⁹ NPS-UD Housing Development Capacity Assessment; Future Proof Partners, Market Economics, 30 July 2021.

intensification provisions ¹⁰				
Plan change 12 ¹¹	Supply	61,800	98,400	177,100
	Demand	4,200	14,300	43,100

54. It is worthwhile then considering what split between brownfield and greenfield growth might be expected and therefore how best to anticipate this trend and respond to it from a planning, infrastructure, and investment point of view.
55. Currently, the market feasible split is 14,900 brownfield and 8,000 greenfield, or a ratio of 65:35¹². Over the long term, under current district plan settings, this is forecast to move to 80:20 in favour of brownfield¹³. In an unconstrained HSA scenario, free of the application of qualifying matters, through time the split widens to approximately 85:15¹⁴ whereas under PC12, with qualifying matters applied, this split remains constant at 80:20 through the various time periods.
56. This demonstrates widespread market feasible residential brownfield options across the existing urban area. Despite the application of qualifying matters, there is a significant amount of the market feasible supply, well in excess of forecast demand – a total of 177,100 market feasible over the long term, with 138,700 in brownfield and 38,400 in greenfield areas versus total demand of 43,100 dwellings. The application of qualifying matters over the long-term sees a 24% drop in

¹⁰ Residential Capacity Feasibility Modelling; Medium Density Residential Standards and Plan Change 12: Hamilton City, Market Economics, 2 Sept 2022 Draft.

¹¹ Residential Capacity Feasibility Modelling; Medium Density Residential Standards and Plan Change 12: Hamilton City, Market Economics, 2 Sept 2022 Draft.

¹² P.27 Table 5-1, Residential Capacity Feasibility Modelling; Medium Density Residential Standards and Plan Change 12: Hamilton City, Market Economics, 2 Sept 2022 Draft.

¹³ P.30 Table 5-4, Residential Capacity Feasibility Modelling; Medium Density Residential Standards and Plan Change 12: Hamilton City, Market Economics, 2 Sept 2022 Draft.

¹⁴ P.36 Table 5-8, Residential Capacity Feasibility Modelling; Medium Density Residential Standards and Plan Change 12: Hamilton City, Market Economics, 2 Sept 2022 Draft.

market feasible supply. Notwithstanding this, the 177,100 represents 116% market feasible increase on the current operative district plan provisions over the long term and 4.5 times increase on current market feasible levels.

57. Therefore, the excessive market feasible supply enabled under both PC12 and the MDRS enabled through the HSAA (without the application of qualifying matters), relative to demand, is likely to lead to a scattered development pattern of urban intensification across existing residential areas in Hamilton regardless of the locational attributes, amenity, services and overall suitability of any given area to accommodate intensification.
58. The Market Economics report 2022 concludes that within the options, Scenario 3 (PC12) is likely to represent a more favourable option (than Scenario 2 – HSAA without qualifying matters applied) in relation to the “economic costs and benefits and the alignment with the objectives of the NPS:UD”. Market Economics finds that Scenario 3 is likely to:
 - support a more efficient spatial economic structure for the city (than Scenario 2) as higher density development is limited to central areas where it is more likely to support the primacy of the City Centre.
59. Clearly defined geographic parameters of where intensification can occur is critical. This forms the planning envelope of what is possible. Overlaid with economic evidence can then inform when and how much intensification might be expected to occur within these envelopes or geographic areas over what time period. These two aspects together, provide certainty to inform infrastructure investment, timing and sequencing. It provides certainty of outcome to the market to existing homeowners of what the future form in their neighborhood is likely to be and to developers regarding what level of development is likely to be permitted and therefore serviced. This certainty of outcome through planning allows urban growth to be serviced in a feasible, timely and cost-efficient manner.

60. PC12 in my view represents good urban planning, focusing densities around centres rather than the ad-hoc MDRS approach which will enable increased development densities throughout the residential urban environment.
61. It is also important to note that the Hamilton market is unique regarding its size, characteristics, and demand profile. It is a compact city, relatively flat, the distribution of its centres are close together and the scale of each centre is generally smaller than those of larger metropolitan centres like Auckland. These factors mean that large parts of the City are highly accessible from multiple locations, walking and cycling are viable alternatives to the private vehicle.
62. Under a highly permissive planning framework, where there is an abundance of market opportunities, the location and type of where development opportunities are realised will be highly uncertain. This will mean from an infrastructure and investment point of view it will be hard to predict and respond to. This will also raise questions regarding the efficient use and return on investment of existing infrastructure assets.
63. Objective 1 of the NPS:UD specifically seeks well-functioning urban environments. The ability to service growth through efficient infrastructure must be a core tenet of this.
64. The MDRS represents a paradigm shift with respect to the permitted baseline and consenting environment for residential development. This has knock-on consequences from an environmental effects perspective. Under the existing Hamilton City Operative District Plan in the general residential zone the activity status of standalone dwellings on a minimum 400m² sections are a permitted activity, duplexes are a restricted discretionary activity, higher intensity forms of residential are discretionary. In carrying out its functions under s 31(1)(a) of the RMA HCC must "...achieve integrated management of the effects of the use,

development, or protection of land and associated natural and physical resources of the district”.

65. Through the planning frameworks the permitted activity statuses create the permitted baseline of effects. The MDRS under HSAA creates a new environmental bottom line or permitted envelope of effects which significantly enlarges that which exists under the existing regime. This is evidenced through the new plan enabled capacity and market feasible capacity quanta discussed earlier.
66. Intentionally or otherwise, the permitted activity status under the MDRS assumes that the cumulative effects of this expanded envelope of new development rights will together have a less than minor effect. The evidence that has been presented on behalf of HCC, in particular from Ms Colliar, that the unmodified HSAA intensification requirements will create significant adverse effects related to the three waters infrastructure, which in turn place HCC in breach of its obligations under TTW.
67. The introduction of the HSAA intensification requirements confers far greater development rights to property owners with increased ease of realisation e.g permitted activity status. The change in law was not supported by any place-based evidence assessing the environmental impacts of the new permitted envelope of development rights.
68. It is easy to confer additional property rights, it is much harder to take them away. Once the HSAA rights have been conferred, it will be far more difficult and costly for these rights to be removed or limited in future. The weight of evidence to support a reduction in these rights in future would likely need to be significant given the far-reaching conveyance of these rights across private property owners in all general residential zones, across all major metropolitan centres in New Zealand. Any change would only be likely once the adverse effects begin to materialise - this runs counter to the precautionary principle of

environmental management upon which the RMA is based, and has particular significance in the Waikato sub-region given the requirements of TTW.

Affordability

69. Despite the 2021 HBA for Hamilton showing high levels of market feasible supply under all growth scenarios, it highlighted large shortfalls in capacity across the lower dwelling value bands. Capacity exists in the higher value bands within greenfield areas while the City Centre accounts of larger shares of the lower value capacity.
70. This reported price deficiency in supply by the 2021 HBA is interesting to observe given the overall market feasible supply is expected to be high relative to demand but yet supply of dwellings in the lower price segments is weak. This suggests that zone enabled, market feasible supply is not the sole answer to solving housing affordability despite the intent of HSAA – other mechanisms are required to support market delivery of homes into lower price segments.
71. The premise of the HSAA legislation was to increase housing affordability through increasing zone enabled supply of housing and to liberalise the variety of housing types to the market.¹⁵ The underlying assumption used in the ‘Cost-Benefit Analysis of proposed Medium Density Residential Standards’ (**CBA**) to inform the Bill assumed that a certain proportion of the additional development rights conferred to property owners would be taken-up, thereby creating new homes and increasing overall supply across Tier 1 centres. This would be achieved by bringing about a “land-value shock”.¹⁶

¹⁵ <https://environment.govt.nz/what-government-is-doing/areas-of-work/urban-and-infrastructure/housing-intensification-enabled-by-rma-amendment-act/>

¹⁶ P.29. PwC Sense Partners (2021) *Cost-Benefit Analysis of proposed Medium Density Residential Standards*.

72. The CBA used the Auckland Unitary Plan (**AUP**) as the reference point to argue that when significant up-zoning occurs, there was a 20% probability of houses adding at least one dwelling if they have high relative land value and low opportunity cost of development.¹⁷ This hypothesis seemed to disregard dwelling demand, i.e., would there be a buyer for this new dwelling in this price segment. Nonetheless, using this assumption the CBA extrapolated this out across other Tier 1 centres to show how many new dwellings are likely to be delivered as a result of MDRS. For Hamilton, the CBA forecasts a wide range of possible additional dwellings over a 5-8 year period as a result of MDRS, ranging from 3,400 to 12,200.
73. The CBA modelled the effects of MDRS in Auckland showing dwelling growth rates as percentage stabilising but yet predicting future new builds increasing, despite declining population demand and known supply-chain and material shortages. Now there is also high forecast interest rates to contend with (higher than those present when the AUP zone uptake occurred over the past 5 years), which is likely to further dampen any real market up-take.
74. The CBA considered network infrastructure as a cost to implementing MDRS but treated it as an externality, not as a barrier, in that it could be overcome through improving the use of funding tools already available to councils.
75. It is clear from the HBA findings that the development cost-structures do not incentivise dwelling construction in the lower price segments of the market and as such it seems unlikely that HSAA will fundamentally change this dynamic. Given the scope available to the IHP for basing their recommendations, it would be logical to consider how value uplift

¹⁷ PwC Sense Partners (2021) *Cost-Benefit Analysis of proposed Medium Density Residential Standards*, p.26.

mechanisms, such as inclusionary zoning, could complement increased development rights under the HSAA as a way to genuinely assist with affordable housing outcomes. This could be in the form of a development fee/financial contribution per unit enabled under the HSAA which could be used by an established community housing provider to fund build to rent schemes.

TE TURE WHAIMANA

76. TTW presents a unique policy environment for HCC and its Future Proof partners (Waikato and Waipa Districts). TTW is established under the Waikato-Tainui Raupatu Claims Settlement Act 2010 (**Settlement Act**). Its status in a RMA context has been clarified through caselaw, in particular *Puke Coal v Waikato Regional Council*¹⁸ and more recently the Board of Inquiry Decision on the Watercare Waikato River Water Take Proposal¹⁹, confirming TTW as the “*primary direction-setting document for the Waikato River and activities within its catchment affecting the Waikato River*”²⁰.
77. Evidence has been presented by Mr Julian Williams setting out the important history and significance of TTW to Waikato Tainui and other River Iwi, and I rely on his evidence in that regard. I wish to emphasize three planning related points. First, TTW has equal status to that of a National Policy Statement (**NPS**) and, in instances where a conflict between an NPS and TTW occurs, TTW takes precedence. This places TTW close to the apex of the planning hierarchy, sitting immediately below the RMA. Its significance in this sense cannot be over emphasized. The second aspect is that any new policies seeking to give effect to TTW must demonstrate “betterment” for the river – which means restoration

¹⁸ [2014] NZEnvC 223 at [92].

¹⁹ January 2022.

²⁰ At pg 18. See also section 5(1) of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010

and protection. This is a significantly higher hurdle than simply avoiding, remedying, and mitigating the effects in a traditional RMA decision-making framework.

78. The third important aspect to bear in mind is that the definition of the Waikato River in this context goes beyond the main stem of the river itself. It includes all tributaries and the entire catchment. Therefore, the entirety of HCC's territory and large parts of the sub-region under the jurisdiction of Waipa and Waikato District Councils are practically connected to the delivery of TTW's objectives.
79. Reading TTW as the primary direction-setting document for the river and activities affecting it, it is clear that the health and wellbeing of the river, including its mana and mauri, are of paramount concern. This is reflected in the first objective: the restoration and protection of the health and wellbeing of the Waikato River. The words "restoration" and "protection" are used in many of the succeeding objectives and are an acknowledgement that the river is degraded and that its water quality must be restored so that it is safe for people to swim in it and take food from it. The planning implications of TTW are therefore significant. I consider the following objectives particularly relevant in this case:
 - a. The restoration and protection of the health and wellbeing of the Waikato River.
 - b. The restoration and protection of the relationship of Waikato-Tainui with the Waikato River, including their economic, social, cultural, and spiritual relationships.
 - f. The adoption of a precautionary approach towards decisions that may result in significant adverse effects on the Waikato River, and in particular those effects that threaten serious or irreversible damage to the Waikato River.
 - g. The recognition and avoidance of adverse cumulative effects, and potential cumulative effects, of activities undertaken both on the Waikato River and within its catchments on the health and wellbeing of the Waikato River.
 - h. The recognition that the Waikato River is degraded and should not be required to absorb further degradation as a result of human activities.

- j. The recognition that the strategic importance of the Waikato River to New Zealand's social, cultural, environmental and economic wellbeing requires the restoration and protection of the health and wellbeing of the Waikato River.
 - k. The restoration of water quality within the Waikato River so that it is safe for people to swim in and take food from over its entire length.
80. In order for the District Plan to give effect to TTW, it must deliver on the objective of restoration and protection. Avoiding adverse effects is not enough. Land use activities engaging with and affecting the River must, in some proportionate way, contribute to its restoration and protection. In the context of plan provisions which are designed to enable increased residential densities, and with that, increase pressure and demand on critical three waters infrastructure which is inextricably linked to the River, achieving this 'effects positive' outcome is extremely challenging.
81. This standard for the receiving environment is like no other municipal area in New Zealand. No other major centre is required to manage effects of urbanization to the extent that it restores and protects the receiving environment from further degradation, and contributes to its overall 'betterment'.
82. These challenges are amplified if increased densities are enabled across all residential zones, regardless of infrastructure capacity and other similar constraints. In fact, if increased densities are universally enabled, the most likely scenario is that these additional developments will place demand on the three waters networks which cannot be accommodated without environmental breaches occurring. It is for this reason that HCC has sought to control and modify the implementation of MDRS within the City.

QUALIFYING MATTERS

Te Ture Whaimana

83. Under the HSAA, councils may vary the prescribed MDRS and its application of policy 3 of the NPS:UD in order to “accommodate” a qualifying matter. The HSAA itself explicitly identifies as a ‘qualifying matter’ a matter required to give effect to TTW.
84. When introducing a new policy and supporting rule framework, the first question must be, “is this new policy and rule framework delivering “betterment” for the Waikato River?”. The test of a new policy against TTW might not always be extensive or overly onerous as it will depend on the nature and causal relationship of the new policy to TTW and ultimately the health and wellbeing of the Waikato River. In this case, the relationship between the proposed new policies in the Plan and the objectives of TTW is considered strong and requires careful consideration from HCC.
85. It is necessary to identify the ‘matter’ required to give effect to TTW. To give effect to TTW, adverse effects of development on/associated with three waters infrastructure must be appropriately managed so as to achieve the objectives of restoration, protection and betterment. On this basis, the ‘matter’ is the relationship between residential development densities enabled by the district plan, and the three waters infrastructure needed to service that development so that adverse effects are managed in a way that gives effect to TTW, including the requirement for betterment.
86. The matter concerns the balance in the relationship between development, and the infrastructure to service the development. There are three key components to the relationship:
- a) Development densities enabled under the District Plan;
 - b) Available and planned three waters infrastructure;

- c) The Connections Policy determining when and how development and infrastructure connect.
87. For the relationship to be balanced, development must be enabled in a manner that reflects the capacity in the network, and where capacity constraints exist, development must be held back until three waters infrastructure capacity is available.
88. All parts of the relationship need to be in sync. This occurs by directing intensification into areas where infrastructure upgrades are planned, and funded and, via a Connections Policy, managing the risk of a breach while that infrastructure is delivered. If this relationship is not in balance, unmanaged adverse effects on the Waikato River arise and TTW is not given effect to.
89. The detailed technical evidence which will be presented on behalf of HCC at the substantive hearing will show that if MDRS and Policy 3 is enabled across all residential zones in the City, development densities will increase, based on growth projections, in an ad hoc pattern without reflecting network capacity, efficiencies and urban optimisation. In this scenario, the infrastructure response will lag behind development, and breaches of the network are likely to occur. While waiting for the infrastructure programme to play an inefficient catch up game, the only available intervention is the Connections Policy, where enabled development is denied access to the networks. This may avoid some breaches, but gives rise to development inefficiencies, market uncertainty, and developer frustrations.
90. Taking into account the current state of the network capacity, the balance in the relationship will be threatened if the spatial extent and nature of proposed intensification is not controlled. HCC's three waters evidence is that if intensification is not controlled, the alternative is either a massive and immediate (but unaffordable) infrastructure spend

across the City to get out ahead of development, or the implementation of a draconian Connections Policy that rejects plan enabled developments on a widespread basis. The former is unaffordable and will not happen, while the latter represents an 'ambulance at the bottom of the cliff' scenario.

91. On that last point, it is the legislative function of the RMA and plans created under it to manage the effects on the environment, not Council policies. If a Connections Policy was to be relied on solely to avoid adverse effects from land use and development, it is my view that a territorial authority would not be meeting its obligations and performing its role and functions to meet the purpose of the RMA.
92. Therefore, while HCC can rely on a bylaw and Connections Policy to support managing the impacts of intensification on its three waters network, for example, by controlling site specific connections where no network capacity exists, it should not stretch to becoming the primary environmental effects management tool.
93. Given these constraints, HCC's evidence is that the HSAA intensification requirements will need to be moderated. A more appropriate approach is to adjust the spatial extent and level of intensification to better balance the realities of the existing network capacity and HCC's planned programme, with a proportionate reliance on the Connections Policy, where refusal to connect to the network is the exception rather than the rule.
94. The body of evidence presented to support PC12 clearly outlines that the City would breach its obligations under TTW unless the MDRS and Policy 3 requirements are modified. The MDRS standards and Policy 3, without the accommodation of qualifying matters, would create a highly permissive planning framework for residential development in the City. It would enable residential intensification across all residential zones,

leading to unfettered development outcomes. This will significantly challenge the ability to plan, invest and deliver infrastructure in time to service the development in a coordinated and cost-efficient manner.

95. To illustrate the challenge, new residential three waters networks in the City's three waters are generally designed in accordance with the Regional Infrastructure Technical Specifications (**RITS**) which are based on 45 persons per gross hectare (General Residential), which loosely equates to 16 dwellings/ha densities. Coupled with this, design standards and approaches have evolved over time so that while a network might have been designed for a specific density, the approaches and standards for managing for example stormwater, have changed over time. This has meant newer assets have to be designed to withstand increased regularity and severity of rainfall events, and the quality of the discharges into receiving water bodies from these has too increased.
96. This means that further intensification will place a demand on a network with which that network was not designed to manage. This will culminate in network failure. The form, nature and frequency of these failures will vary but the evidence points clearly to these failures culminating in breaches to the obligations under TTW.
97. Existing infrastructure information supports this conclusion. First, the evidence related to three waters network capacity has shown that no part of the City's infrastructure is demonstrably superior to any other with respect to network capacity to sustain further intensification in advance of significant investment occurring.
98. Second, the evidence of Ms Colliar shows that there is a high correlation between the effects of greater enabled urban residential densities, and the health and wellbeing of the river. This is on the basis that the existing infrastructure networks do not have the capacity to service the forecast development up-take of the increased residential densities. Modelling

shows that if the increased development densities occur ahead of increased infrastructure capacity being enabled, the infrastructure networks will fail, which will result in uncontrolled discharges to the river and untreated contaminant run-off (examples of infrastructure failure).

99. In the situation where the City is unable to anticipate where, when and what form of development is likely to take place, its ability to provide a suitable infrastructure solution is severely constrained. The City is unable to invest in infrastructure everywhere and it does not have the ability to be continually up-sizing infrastructure in a reactionary manner to meet development needs. The infrastructure planning, investment and delivery cycle runs over many years. Even if HCC had the financial means to operate in a reactionary ad hoc manner to service development once it had occurred, under the current frameworks, there would still be a significant lag of multiple years between development occurring, and improved infrastructure servicing solutions being planned, funded, delivered and operational.
100. A close examination of the MDRS and the intensification policies under the NPS:UD was undertaken to understand how these policy settings, as stated in the HSAA, could be amended to achieve “betterment” for the river while also providing for further intensification. I consider that PC12 has struck the appropriate balance between delivering intensification, and giving effect to TTW.

Flood hazards

101. Turning now to flood hazards. Intensification has the potential to increase the consequence of harm to property and people as a result of flooding. Essentially there is the potential for more people and property to be exposed to flooding in an event if that intensification is being located in an area affected by flood hazards or there are inadequate controls to prevent the diversion or displacement of flood water onto

adjacent sites.

102. The pathway to adjust the MDRS and Policy 3(d) in response to natural hazards is provided for under section 77I(a) (qualifying matters) in so far as s 6(h) of the RMA requires territorial authorities to “recognise and provide for” “the management of significant risks from natural hazards.” Development in areas with natural hazards is a qualifying matter. However, the notified version of PC12 relies on the ODP flood provisions to identify risks, whereas HCC is aware that this information is incomplete, and requires updating via a separate plan change.

103. To explain, the ODP employs a number of techniques to manage flood hazards. These include:

- a) Rules linked to incorporated maps for the 1% Annual Exceedance Probability (**AEP**) flooding event (current coverage is 14% of the city (overland flowpaths / ponding)), river flooding from the Waikato River, and potential maximum extents of flooding caused by the blocking of select culverts.
- b) Rules about earthworks and diversion / displacement (not mapped).

104. The notified provisions of PC12 takes a moderated approach to enabling higher densities but not comprehensively in relation to controlling development with respect to flood related natural hazards. A revised approach to flood hazards is required by the City to take account that:

- a) The current District Plan has 14% of the city mapped for flood hazards. This has been the case since the current plan was notified in 2012. Despite having additional flood hazard mapping developed since then, plan changes have not been

promulgated to incorporate the mapping into the District Plan. As such, the existing mapping in the District Plan is out of date.

- b) Flood hazards are a city-wide matter, requiring an integrated response not strictly limited to residentially zoned land. Controls will potentially affect all parts and residents of the City, either directly (i.e. within a flood area) or indirectly (e.g. provisions protect unaffected areas from diversion or displacement of flooding).
105. New flood hazard provisions need to better mitigate the cumulative effects of increased urban intensification on flood hazards and provide for the effective updating of flood information. The current method in the District Plan sees flood hazard maps embedded within the plan. A more efficient approach is to have the best available flood hazard mapping information sitting outside of the plan in a GIS web viewer. A GIS web viewer would provide information that can be used to determine the extent of these flood plains and other features and flood data being updated over time to reflect changing inputs (e.g. topography, rainfall, modelling methodologies and technology).
106. Council's GIS Floodviewer tool (www.hamilton.govt.nz/floodviewer) was developed to publish best available flood hazard information. The tool became live in December 2020 and, alongside the completion of further catchment-wide flood modelling, has published data for 70% of the city. With additional modelling under way the Floodviewer coverage is expected to be at 90-95% by mid-2023.
107. Floodviewer publishes best available flood hazard information for parts of the city. It is essentially an amalgam of the latest flood mapping for each catchment where flood modelling has been completed. Modelling for catchments has occurred over time. Each has used appropriate modelling methods and inputs available at the time (e.g. rainfall, climate

change assumptions, ground contours). Catchments with newer modelling use more up-to-date methods and inputs.

108. In some locations Floodviewer shows less flooding than the District Plan mapping, but more in others. This reflects improvements in modelling technology, and changing inputs (e.g. earthworks may have altered ground levels, higher rainfall to reflect latest climate change modelling).
109. Most rules in the District Plan that are intended to manage development with respect to flood hazards are only triggered when the development is within a flood hazard area as defined in the District Plan maps. This places a huge reliance on District Plan maps being updated as new information becomes available, which must follow a Schedule 1 RMA process.
110. Development is occurring on land affected by flood hazards (as published in Floodviewer) but because the District Plan maps do not reflect this information most rules are not being triggered.
111. In order to manage some of the gaps this creates, where scope exists within a Resource Consent (e.g. Subdivision, Discretionary and Non-Complying activities) Council can and does consider the best available information currently published on Floodviewer. The building consent process is able to refer to Floodviewer information. However, the considerations and design responses are not as comprehensive as if the District Plan rules were being applied (e.g. freeboards applied through the building consent process is generally less than following the District Plans). Under the district plan, HCC has limited ability to rely on the Floodviewer information, for permitted development, or where the activity requires consent but the matters of discretion do not include natural hazards.
112. It is intended that revised plan provisions related to flood hazards will address:

- a) Maintaining continuity of overland flow paths;
 - b) Managing the cumulative effects of displacement onto adjoining sites;
 - c) Flooding hazards associated with depressions (ponding created because of a lack of outlets or blocked culverts);
 - d) Appropriateness of risk management controls within the low flood hazard areas; and
 - e) Providing greater certainty on existing controls, including freeboard requirements, design of fences and walls.
113. Given the current gap in the ODP with regard to flood hazards, the full extent of hazards are an important consideration for the Panel in determining the impact that greater enabled residential densities under PC12 could bring. Increased intensification (greater building coverage) is likely to see greater potential for displacement of low-level flood hazards up stream or down stream of sites, and increase risks from minor ponding and flooding of depressions.
114. Clause 99 of Schedule 1 of the RMA enables the Panel to not be limited in its recommendations by the scope of submissions. Furthermore, under s 80E the Panel is permitted to amend or include related provisions that “support or are consequential” on the MDRS and Policy 3 (s 80E(1)(b)(iii)). Related provisions are defined in scope under s 80E(2) and include, of relevance: (a) district-wide matters, (e) qualifying matters, and (f) storm water management.
115. With this flexibility in mind, HCC intends on presenting further evidence at the substantive hearings on PC12 outlining a revised management regime for managing flood hazards on a city-wide basis. This further

information will enable the Panel to make a better informed recommendation on the extent to which flood hazards should be accommodated as a Qualifying Matter.

Historic Heritage Areas

116. Plan Change 9 (**PC9**) to the ODP was notified on 22 July 2022. It incorporated five elements of which HHAs were one. PC9 proposed 32 new HHAs by way of overlay with corresponding plan provisions to safeguard the historic qualities of these areas. Given HHAs fall under s 6 of the RMA, the rules pertaining to these areas have immediate legal effect from notification and are considered an existing qualifying matter under ss 77K and 77Q of the RMA.
117. The approach taken in the notified version of PC12 where a residential HHA exists is to keep the general residential zoning underneath it. Therefore, if the HHA falls within an area covered by Policy 3, then the general residential zoning would remain, with the addition of the HHA overlay. This is instead of changing the underlying zone to medium density residential.
118. As per Direction 1 on PC9 dated 2 December 2022, hearings will commence on 22 May 2023 and HHAs will be the first item heard. It will be for the PC9 panel to determine the appropriateness of the proposed plan provisions and the validity of the number and extent of HHAs proposed. The Panel may wish to consider what underlying zoning is attributed in areas where an HHA overlay applies and if any further controls are required beyond the HHA to protect reverse sensitivity issues which might affect their quality.

HCC'S APPROACH TO THE HSAA

119. The directives for intensification under the HSAA are clear – all

residential zones must intensify along with the central city, walkable catchment and in and around centres commensurate to their size and scale (subject to qualifying matters).

120. The evidence demonstrates that enabling the HSAA densities without modification would contradict the City's obligation to TTW. In addition to the modification required to avoid the adverse effects on the Waikato River brought about by intensification, there is also the need to demonstrate "betterment". The overarching policy approach is as follows:

- a) Apply an infrastructure overlay in the brownfield parts of the city, including centres, introducing density standards (permeable surface requirements and minimum lot sizes per unit), green policies (rainwater tanks, provision of trees, low-flow fixtures) and a need to undertake infrastructure capacity assessments for developments of or more units to assess if there is adequate network capacity.
- b) Introduce financial contributions provisions which specifically seek to mitigate some of the of adverse effects on the Waikato River and are invested in initiatives which achieve betterment.
- c) Enable development within 'Stage 1' area which includes the central city, walkable catchments and CBD North. Retain the green policies and limit the infrastructure capacity assessments to local network only (on the basis that over time the City will lead the investment into strategic infrastructure assets to service growth).
- d) Adopt a connections approval process that includes an assessment of network capacity to determine whether an approval will be granted. This is underpinned by existing bylaws

under the Local Government Act 2002 .

121. The approach taken seeks to direct higher density forms of development into the Stage 1, central city and walkable catchment areas, introduce additional safeguards to mitigate the effects of unfettered growth in the brownfield areas outside of Stage 1, and in instances where higher density forms are sought outside of stage 1, that infrastructure capacity assessments are to be undertaken to demonstrate capacity and identify where investment is required by the developer to upgrade the network to enable development to proceed. This approach represents a planning led response – given infrastructure evidence shows no one area in the City is better than another to accommodate growth from a 3-waters point of view.
122. The intent of PC12 is to focus growth into the central city, walkable catchment and CBD north areas. This aligns with first and foremost the NPS:UD Policy 3, a range of higher-order planning documents, HCC strategies and is supported by the Market Economics (2022) evidence showing that this is where the market is most likely to deliver vertically attached dwelling typologies. There is a high degree of alignment of this approach to objective 1 of the NPS:UD. It enables higher density forms of growth close to a wide range of amenities, employment opportunities, and future transit corridors in a more concentrated pattern than otherwise would be the case with unmodified HSAA policies through the carte blanche MDRS provisions throughout all residential zones.
123. It also important to note that the infrastructure overlay approach for the rest of the city does not preclude residential development from occurring, it is not prohibited or non-complying in activity status. It is restricted discretionary in status, requiring a higher threshold of assessment to be undertaken to confirm three waters network capacity.
124. Secondly, the rationale for the use of an overlay as a method is so that

it can be more easily removed through future plan changes when infrastructure capacity becomes available.

125. This targeted approach to where increases in density are enabled through zoning allows the City to align infrastructure investment to service development. This planning-led approach provides certainty, within a defined geographic area, of where the increases in density are likely to occur by limiting density in certain locations and permitting it in others. The economic and population modelling then allows the infrastructure to be sequenced and sized accordingly to meet the anticipated demand. This more targeted approach also means scarce investment dollars can be more efficiently invested by directing them to a specific locality. In turn, it means these assets can be more optimally utilised as additional development is more likely to occur within the same locality.

WELL-FUNCTIONING URBAN ENVIRONMENTS

126. The NPS:UD requires all councils to plan well for growth and achieve a well-functioning urban environment for all people, communities and future generations. This includes:

- a) Ensuring urban development occurs in a way that takes into account the principles of the Treaty of Waitangi;
- b) Ensuring that plans make room for growth both 'up' and 'out', and that rules are not unnecessarily constraining growth;
- c) Developing, monitoring and maintaining an evidence base about demand, supply and prices for housing and land to inform planning decisions; and
- d) Aligning and coordinating planning across urban areas.

127. The primary objective of the NPS:UD is the creation of 'well-functioning urban environments'. In my view, PC12 meets this objective as:

- a) Adverse effects of urbanisation are managed to ensure TTW obligations are met and betterment is attained.
- b) It provides a mix of housing types and urban environments which offer a range of choices suited to the activities occurring within them.
- c) It supports the MSP Transport PBC in order to provide transport choice and multi-modal options.
- d) Housing options will be focused closer to employment, amenities, and services.
- e) Infrastructure will be more efficiently utilised by focusing density into certain areas.
- f) Higher densities will occur in areas which are better served by jobs, services, retail, education and amenities including in highly accessible locations.
- g) Higher density forms of growth will be dissuaded in areas which are poorly serviced by infrastructure, employment, amenities, education and transport.
- h) The environment and ecosystem is not adversely effected by urbanisation.

128. The primary directives from HCC strategies and policies support the NPS:UD objective. These organisational directives sit within plans and strategies including Access Hamilton, the Hamilton Urban Growth Strategy and the Hamilton Housing Strategy, among others. These

strategies set out the organization's goals with respect to housing, transport (including VKT reduction, mode shift), future urban form and infrastructure investment priorities. Further direction is taken from the Future Proof Strategy 2022 and the relevant business cases.

CONCLUSION

129. HCC's evidence is that the HSAA intensification requirements will place HCC in conflict with its obligations under TTW. This necessitates modification of the approach to accommodate the TTW qualifying matter. The notified provisions of PC12 balance the overall intent of the HSAA regarding housing enablement while still meeting the sufficiency requirements in the HBA, meeting the primary NPS:UD objective of creating well-functioning urban environments, while protecting and enhancing the River.
130. The costs associated with the approach under PC12 is minimal with respect to housing supply. The City, under current District Plan settings, has a high proportion of market feasible supply well in excess of forecast demand. The City has had housing intensification policies for over two decades now which have led to more diverse housing types and strong market up-take of in-fill and brownfield residential housing options. PC12, even with modified MDRS and Policy 3 provisions, will substantially increase the market feasible supply far beyond forecast demand.
131. The approach HCC has taken to HSAA through PC12 has struck a balance across the competing policy objectives of HSAA, NPS:UD, and TTW. PC12 reflects a pragmatic and balanced approach responding to the unique

Hamilton policy context and environmental bottom-lines.

Dr Mark Nairn Davey

Dated 20 December 2022