

**Section 42A Hearing Report Addendum**

**PLAN CHANGE 13 – TE RAPA  
RACECOURSE PRIVATE PLAN  
CHANGE**

to

**HAMILTON CITY DISTRICT PLAN**

**Hamilton City Council**

## 1 Introduction

### Purpose of Report

- 1.1 This report forms an addendum to the Section 42A Report for Plan Change 13 (PC13) dated 12 July 2023 prepared on behalf of Hamilton City Council (HCC) (the Section 42A Report). This addendum has been prepared following review of evidence provided by/on behalf of Waikato Racing Club Incorporated (WRCI) as applicant and that provided by submitters.

### Technical Reports

- 1.2 Addendums to the technical reports prepared for the Section 42A Report have been prepared to support this addendum. This includes the following which are attached to this report as appendices:

**Appendix 1** Transportation

**Appendix 2** Urban Design

**Appendix 3** Acoustic

**Appendix 4** Water Supply

**Appendix 5** Stormwater

**Appendix 6** Wastewater

**Appendix 7** Geotechnical

### Code of Conduct

- 1.3 While I understand that the present hearing is not a matter to which the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note (2023) applies, I confirm that I have approached the preparation of this evidence in the same manner as I would for Environment Court proceedings and have complied with the requirements of the Code. I confirm that the issues addressed in this evidence are within my area of expertise and the opinions I have expressed are my own except where I have stated that I have relied on the evidence of other people. I have not omitted material facts known to me that might alter or detract from my evidence.

## 2 Comments on Evidence and Issues

- 2.1 I have reviewed the evidence of the applicant and the submitters. In this section I summarise what I see as the remaining points of contention and provide further assessment and recommendations accordingly. In doing so I rely on the expertise of others where stated, and as contained in the supporting technical reports. My assessment takes into account the requirements of the Medium Density Residential Standards (MDRS) and Plan Change 12 (PC12) as outlined below.

### Medium Density Residential Standards and Plan Change 12

- 2.2 As outlined in the Section 42A report prepared for PC13, the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act (Enabling Housing Supply Act) was enacted in December 2021. Clause 25(4A) of Schedule 1 of the Resource Management Act 1991 (RMA) directs that a specified territorial authority (which includes HCC) must not accept or adopt a plan change request if it does not incorporate the MDRS as required by section 77G(1). The MDRS provisions include objectives and policies and various standards including building height, height in relation to boundary and setbacks.
- 2.3 HCC is currently incorporating the MDRS into the District Plan through PC12 which was notified on 19 August 2022. PC12 hearings have not yet occurred, however there is general consensus that in the interest of plan readability and consistency of rule application, PC13 should seek to align with the provisions of PC12 for the Medium Density Residential Zone. It is acknowledged that the notified provisions of PC12 are subject to change through the hearings process. It is anticipated that HCC will likely undertake a further variation to the District Plan to ensure provisions for the Medium Density Residential Zones are aligned as applicable and practicable.

- 2.4 I acknowledge submissions which state that the MDRS do not apply to this plan change. Legal advice provided to HCC to date is that the MDRS are applicable. In my view, medium density residential zoning can be proposed in this location regardless as to whether the MDRS apply, or not. Where application of the MDRS becomes particularly relevant, is in relation to the retirement village to the south of the site which is zoned General Residential. In my opinion, more sympathetic provisions than the MDRS should apply to this boundary, if this is indeed possible. I comment on this further later in this addendum.

### **Transportation**

- 2.5 I wish to update the Section 42A assessment to acknowledge that the transportation assessment relied on for the Section 42A reporting was prepared by Alastair Black and Isa Ravenscroft of Gray Matter, rather than just Mr Black as stated in the Section 42A report.
- 2.6 Transportation matters have been assessed in the evidence from Michael Hall on behalf of Chartwell Investments Ltd, Ecostream Irrigation Ltd and Takanini Rentors Ltd, and have been raised by several submitters<sup>1</sup>. The evidence from Mr Hall and submitters has been considered by Mr Black on behalf of HCC (Appendix 1). Mr Black confirms his earlier assessment, that the location and transport connections mean that residential activities are consistent with the transportation objectives and policies in the ODP and HCC's strategic framework, and the transport effects in his view are addressed by the proposed plan provisions or can be addressed through future resource consent processes. Mr Black agrees with the applicant's addition to Rule 4.8.12 c. regarding the raised safety platform on Ken Browne Drive. Mr Black does not recommend any additional changes.
- 2.7 Fraser McNutt on behalf of Metlifecare Ltd is of the view that Rule 4.8.12, which requires general accordance with the precinct plan and various transport upgrades, presents a risk to the opportunity and viability of providers such as Metlifecare Ltd to develop and operate rest homes and retirement villages, as these activities do not provide vested infrastructure. He seeks that Rule 4.8.12 should provide for an alternative general accordance provision if the site is developed for rest home or retirement village use, specifically in relation to 'local road provision'. No specific general accordance provision has been provided by Mr McNutt. Mr McNutt also seeks various amendments to the precinct plan including removal of some roads, removal of a road connection through to the racecourse site and removal of the indicative connection to the neighbouring development.
- 2.8 In my view any alternative development layout or infrastructure arrangements for rest homes and retirement villages would be too speculative to include within the District Plan. This matter is best dealt with at resource consent stage. Metlifecare Ltd can, through a resource consent application, seek to depart from the layout and transportation requirements of the District Plan. In this respect I do not support removal of the road layout from the precinct plan which would render it incomplete. I do however support removal of the indicative connection through to the retirement village, if the retirement village is not in support of that.
- 2.9 Taking into account the assessment from Mr Black, I confirm my position in the Section 42A report with respect to transportation and do not recommend any further changes.

### **Building Height**

- 2.10 Building height has been raised by Murray J. V. Bindon, Kāinga Ora and Metlifecare Ltd.
- 2.11 Murray J.V. Bindon is concerned about loss of sunlight due to the potential height of buildings near the boundary with the Forest Lake Gardens Retirement Village (owned by Metlifecare Ltd). He seeks single level housing adjacent to the Village.

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<sup>1</sup> Alan Day, Jad McNally, Angela Fisher, Grant Titchiner

- 2.12 Kāinga Ora seek that the District Plan provide for buildings up to five storeys as notified, questioning the lowering to four storeys post-notification of the plan change. Five storeys is considered appropriate by Michael Campbell on behalf of Kāinga Ora on the basis that this will achieve consistency across Hamilton's Medium Density Residential Zones, taking into account the notified provisions of PC12, and to achieve maximum density on the racecourse site given its location close to amenities, employment and transport, and the requirements of Policy 3(d) of the National Policy Statement on Urban Development 2020 (NPS-UD).
- 2.13 Kāinga Ora also seek that the maximum height is 16m (rather than 18m as previously sought) to accommodate the five-storey development based on 3.2m per floor/storey together with lift servicing and roof top services. The evidence of Mr Campbell states this is inclusive of the roof allowance.
- 2.14 Mr McNutt on behalf of Metlifecare Ltd is of the view that objectives and policies should not contain references to the number of storeys and that this should be within the development standards.
- 2.15 With respect to the submission from Murray J. V. Bindon, I acknowledge that there could be some overshadowing of the retirement village if taller buildings (more than two storeys) are constructed in close proximity. The MDRS provisions for medium density residential zones require at minimum up to 3 storeys and 11m in height. I recommend that height in relation to boundary controls are relied upon to manage issues of overshadowing and loss of sunlight/daylight which is discussed below.
- 2.16 The applicant agrees with the height limit of 16m sought by Kāinga Ora (evidence of Stuart Mackie and John Olliver). This matter has been assessed by Colin Hattingh on behalf of HCC who also supports this change (Appendix 2).
- 2.17 Kāinga Ora propose a 15m height limit inclusive of the roof form. By way of comparison, the notified PC12 standard is 15m plus roof form allowance, which is similar. In my view, to achieve consistency within the District Plan, a 15m height limit plus roof form allowance is the appropriate standard and is the same standard that was originally proposed for PC13.
- 2.18 In response to submitter evidence, the applicant has amended Objective 4.2.15 b. and Policy 4.2.15 e. to refer to five storeys rather than four storeys. I have no objection to this change on the basis that five storeys aligns with the proposed height limit and is consistent with the notified provisions of PC12.

#### **Height in Relation to Boundary**

- 2.19 It is my understanding that Kāinga Ora now seek that height in relation to boundary provisions align with the MDRS, being 4m/60 degrees. I support this position and do not agree with that originally proposed by Kāinga Ora, which would not sufficiently protect adjoining sites from overshadowing and loss of sunlight/daylight, particularly with respect to the retirement village. This is also the view of Mr Hattingh.
- 2.20 Metlifecare Ltd seek that the General Residential Zone height in relation to boundary standard (3m/28 or 45 degrees) is used rather than the 4m/60 degrees proposed for the common boundary with the racecourse.
- 2.21 The MDRS stipulate a height in relation to boundary standard of 4m/60 degrees, and this also aligns with PC12 where a Medium Density Residential Zone adjoins a General Residential Zone. Based on the Enabling Housing Supply Act, any reduction from this would have to meet the RMA requirements for a qualifying matter set out in section 77I, 77J and 77L of the RMA. Metlifecare Ltd has not completed a site-specific assessment or proposed a qualifying matter. However, should the MDRS not apply, I would recommend a 3m/45 degree height in relation to boundary standard for this boundary, based on the existing provisions for the General Residential Zone. I would otherwise recommend retention of the 4m/60 degree standard as proposed for PC13.

## Setbacks

- 2.22 Murray J. V. Bindon seeks a 30m setback for buildings from the Forest Lake Gardens Retirement Village.
- 2.23 As set out in the Section 42A report, the plan change adopts the MDRS setbacks (with some minor amendments to align with PC12). No qualifying matters have been determined that would justify a departure from the setback along the boundary with the retirement village. In any case in my view there are no grounds on which to impose a 30m setback in this location.

## Service Areas and Outdoor Living Areas

- 2.24 Metlifecare Ltd seek an exclusion for rest homes and retirement villages from service area and outdoor living area requirements based on existing District Plan Standards.
- 2.25 I have reviewed the District Plan provisions mentioned in the evidence of Mr McNutt. The existing District Plan as per Rule 4.4.10a. and 4.4.11a. (noting these rules apply to the General Residential Zone) excludes managed care facilities and rest homes from the service area and outdoor living requirements. Retirement villages are not specifically excluded. The District Plan definition of managed care facilities excludes retirement villages. Rest homes and retirement villages are separately defined. My interpretation of the definitions is that a retirement village is a separate activity from a rest home but could incorporate a rest home. Retirement villages are not therefore excluded from the service and outdoor living area requirements in the District Plan.
- 2.26 In any case both rest homes and retirement villages are proposed to be restricted discretionary activities in the racecourse precinct with 'design and layout' a matter of discretion. These matters can be considered in more detail at resource consent stage. I do not therefore support a specific exclusion for retirement villages and rest homes in relation to the service area and outdoor living area requirements.
- 2.27 Kāinga Ora seek that service area requirements are excluded from the standards and that service area provision is considered as a matter of discretion which would be triggered by the consent requirement for four or more residential units.
- 2.28 I have re-reviewed the proposed service area provisions and note that 5m<sup>2</sup> is required per unit for detached and duplex dwellings, however no other service areas are required. Comparatively, PC12 requires 5m<sup>2</sup> per unit, however these can be combined for four or more residential units. There are no service area requirements in the MDRS.
- 2.29 The rebuttal evidence of John Olliver for the applicant states that the service area provision for PC13 was adapted from PC12 and requires 5m<sup>2</sup> to be provided<sup>2</sup>. I therefore query whether the intention was to provide 5m<sup>2</sup> for all units. I concur with the reasoning provided in Mr Olliver's rebuttal evidence<sup>3</sup> that retaining service area requirements ensures it is considered for all developments. I consider that the ability to combine the service area in a multiunit situation would provide flexibility for larger developments. However, I note that the provisions as currently proposed do not adequately provide for service areas for all units. Further to the recommendations contained within the Section 42A report, I recommend that the service area provisions be amended to require 5m<sup>2</sup> for each unit, with an additional requirement that spaces for four or more units can be provided individually or cumulatively, which will provide some flexibility as sought by Kāinga Ora. The recommended provision is outlined below in yellow.

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<sup>2</sup> Paragraph 50

<sup>3</sup> Paragraph 51

4.8.6.2 Rotokauri North Medium-Density Residential Zone and Te Rapa Racecourse Medium-Density Residential Precinct

Description	Minimum Requirements
a. Residential units — <u>detached dwellings, duplex dwellings</u>	i. At least 10m <sup>2</sup> , <u>(except for Te Rapa Racecourse which is at least 5m<sup>2</sup>)</u> and may be made up of two separate areas (to provide for clothes drying and rubbish/recycling storage) ii. Minimum dimension 1.0m iii. <u>For 4 or more residential units the following shall also apply:</u> i. <u>No waste storage or collection point shall occur within the front yard setback</u> ii. <u>Spaces can be provided for each individual unit or cumulatively on a communal basis</u> iii. <u>A Waste Container Management Plan shall be prepared for the site.</u>
b. Ancillary Residential Unit	i. Additional 5m <sup>2</sup> ii. Minimum dimension 1.0m
c. All service areas	i. Shall not be located within a front yard. ii. Service areas may be located within garages or carports where it is demonstrated that there is enough room to accommodate the minimum area without impeding parking.

#### Subdivision Standards

- 2.30 Kāinga Ora seek a minimum vacant lot size of 200m<sup>2</sup> and a shape factor of 8m x 15m. The applicant agrees with this change and amended provisions are provided as attachment 1 to Mr Olliver's rebuttal evidence.
- 2.31 I have no objections to these changes and consider they will adequately provide for vacant lot subdivision within the racecourse precinct.

#### Noise and Reverse Sensitivity Matters

- 2.32 Noise and reverse sensitivity matters have been raised by a number of submitters including Murray J. V. Bindon, Chartwell Investments Ltd, EcoStream Irrigation Ltd, Takanini Rentors Ltd, Metlifecare Ltd and Fonterra.
- 2.33 Murray J.V. Bindon is concerned that the housing density and associated building heights and future activities would lead to unacceptable noise levels.
- 2.34 Chartwell Investments Ltd, EcoStream Irrigation Ltd and Takanini Rentors Ltd are concerned about reverse sensitivity matters arising from the introduction of residential development in close proximity to the existing industrial activities adjacent. They provide evidence from Alex Jacob on acoustic matters. The recommendations from Mr Jacob include:
- The wording of the noise limit in Rule 25.8.3.7.(e) should be updated to LAeq(15min) 65dB instead of LAeq 65dB.
  - Rule 25.8.3.7 is amended so that the exclusion only applies to the PC13 site and not other existing residential zones.
  - Inclusion of internal noise performance standards for low frequency noise.
  - A larger setback area of 60m or an acoustic fence with a height of at least 4m.

- A no complaints covenant on the title of the PC13 site.
  - Use of District Plan noise limits to determine effects rather than noise measurements.
- 2.35 Chartwell Investments Ltd, Ecostream Irrigation Ltd and Takanini Rentors Ltd also seek a non-complying activity status for noise sensitive activities within the setback from the industrial zone and a 60m setback from the industrial zone or an industrial zone along this boundary which includes an Amenity Protection Area. Reverse sensitivity concerns include dust, smoke, fumes and odour, and a no complaints covenant is sought applying to these potential effects.
- 2.36 Metlifecare Ltd submit that the retirement village will be subject to reverse sensitivity as a result of the rezoning to residential development due to particular sensitivities associated with the characteristics of retirement villages.
- 2.37 Fonterra are opposed to the PC13 rezoning because of potential reverse sensitivity issues affecting the Fonterra Crawford Street and Canpac operations. Their principal concern, as outlined in the evidence of Mark Chrisp, is that the PC13 rezoning will lead to further residential development on the racecourse land over time, which will create reverse sensitivity issues for the Fonterra site. This point is also made by Phil Lang for Ecostream Irrigation Ltd and Takanini Rentors.
- 2.38 Envirowaste are also concerned about reverse sensitivity effects, in particular odour. In the evidence from Kaaren Rosser she states that a distance of 700m for residential activities is preferable in terms of odour effects, however residential activities should be at least 500m away.
- 2.39 Other submitters have raised concerns about reverse sensitivity matters generally.
- 2.40 Peter McGregor from HCC has considered the evidence relating to noise and odour (Appendix 3). Mr McGregor makes the following key comments in his assessment:
- With respect to the concern by Murray J.V. Bindon, Mr McGregor reiterates his position in the Section 42A reporting, that excess noise from the residential development would be subject to noise control as per any other area within the city. This would be managed through established procedures.
  - Mr McGregor agrees with the update to Rule 25.8.3.7 e. to include the time interval of 15 minutes, noting this is consistent with other District Plan noise provisions.
  - Mr McGregor agrees with the change to Rule 25.8.3.7 a. regarding the unintended exemption for industrial properties to meet existing noise limits received at other residential sites.
  - Mr McGregor agrees that low frequency noise and impulsive (Lmax) noise have the potential to cause sleep disturbance at night time, and that these should be addressed through the provisions.
  - Mr McGregor agrees that a 4m high acoustic fence or bund would be beneficial in the reduction of noise received at the racecourse precinct, including low frequency and impulsive noise, and that this should be a requirement (rule) in the District Plan.
  - Mr McGregor is of the view that additional noise insulation for low frequency and impulsive noise should be provided at the building façade.
  - In Mr McGregor's view a no complaints covenant would be of limited value as it would not prevent complaints and compliance with the 65dB limit should still be required.
  - Mr McGregor notes that there are closer residential sites to Fonterra, and Fonterra needs to meet the noise emission standards for these sites as per existing District Plan standards.
- 2.41 I note that the racecourse precinct would be subject to the existing District Plan noise limits for residential zones which would control noise emanating from the site.
- 2.42 I concur with the non-complying activity status for noise sensitive activities within the 30m setback and the amendment in this respect provided in the evidence of Mr Olliver. I agree with submitters that an

additional policy should be included in this respect, and am happy to work with the applicant to prepare suitable policy wording.

- 2.43 In my view, increasing the setback to 60m would likely have significant implications for the PC13 proposal. It may necessitate a reconsideration of the roading layout and the transportation effects. It would also result in the loss of potential housing land. It would be preferable for any additional reverse sensitivity noise solution to retain the 30m setback. Similarly, I do not support the introduction of an industrial zone along this boundary, which would result in similar potential for reverse sensitivity as the existing industrial boundary.
- 2.44 Based on the assessment of Mr McGregor, I support a requirement for an acoustic wall to be constructed on the boundary of the site. This requires further consideration in terms of:
- The District Plan provision to apply including any noise level outcomes to be achieved at the racecourse precinct.
  - Implications for the overland flowpath (discussed further below).
  - Consequential fence height rule changes required.
- 2.45 I also support the inclusion of additional assessment criteria to better enable consideration of low frequency and impulsive noise at the building façade based on the advice from Mr McGregor.
- 2.46 I therefore support working with the applicant and submitters as required to prepare suitable provisions for the acoustic wall and assessment criteria wording. Mr McGregor has included assessment criteria suggestions within his evidence which are a useful starting point.
- 2.47 With regard to the no-complaints covenant, I question the appropriateness of this option given the noise limit (65dB) that would apply to the industrial properties with respect to noise received at the racecourse precinct, and the existing District Plan requirement for all sites to comply with Rule 25.11.3 a. (noting that it is likely there would be a higher degree of tolerance for industrial sites and a lower degree for residential sites):
- No objectionable or offensive dust, smoke, fumes or odour shall have adverse effects at any other site.*
- 2.48 However, I agree this would provide a clear signal to any future site owners as to the amenity levels that could be expected in this location. I anticipate that any covenant would be a private covenant and it would not fall upon HCC to enforce it.
- 2.49 The evidence from Mr McNutt on behalf of Metlifecare Ltd states that Metlifecare Ltd will be subject to reverse sensitivity effects from the new residential development associated with PC13 as retirement villages are a sensitive land use. Reverse sensitivity is the vulnerability of an existing land use to complaint or constraint on development due to a newly established and more sensitive land use. In my opinion, the matters raised in the evidence from Metlifecare Ltd concern effects on the retirement village but are not reverse sensitivity effects. Effects have been assessed elsewhere in the Section 42A reporting.
- 2.50 With respect to the evidence from Mr Chrisp regarding the future development of the racecourse site, I consider this to be too speculative to influence the rezoning sought through PC13. The rebuttal evidence from Andrew Castles for WRCI states that there are no current plans for the racecourse to relocate<sup>4</sup>. The rebuttal evidence of Mr Olliver states that all alternative land uses would be considered for the racecourse site if the need arises<sup>5</sup>. The potential for industrial use of the racecourse site in the

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<sup>4</sup> Paragraph 4

<sup>5</sup> Paragraph 11



future was also mentioned in the applicant's Section 32 assessment. In my view, the current proposal will not foreclose the future use of some or all of the racecourse site for industrial land in the future. As outlined in the Section 42A reporting, the Fonterra operations are of a sufficient distance from the PC13 site that noise associated reverse sensitivity effects are not considered to be an issue.

2.51 With respect to the evidence from Envirowaste, I note the plan change site is approximately 550m from the Envirowaste facility in Sunshine Avenue, which is further than the minimum needed as stated by the submitter.

2.52 I also offer the following further comments with respect to the existing policy framework as it relates to reverse sensitivity:

- The NPS-UD is a recent, and the highest level planning policy document guiding urban development. Of note is Objective 4 which states *New Zealand's urban environments, including their amenity values, develop and change over time in response to the diverse and changing needs of people, communities and future generations*. In enabling more people to live in well-serviced areas (Objective 3), the existing urban environment may change.
- Provision UFD-01 7 of the Waikato Regional Policy Statement states that land use conflicts, including the potential for reverse sensitivity, are to be minimised. This is different from avoiding. In my view this means some reverse sensitivity effects may remain, however they must be mitigated so they are minimised to the greatest extent practicable.
- Policy 9.2.5b of the District Plan states that activities sensitive to the adverse effects of logistics and freight handling facilities avoid locating in proximity to the Crawford Street Freight Village. The use of the term 'proximity' is subjective, and implies that this should be considered on a case by case basis, depending on the sensitivity of the activity and the distance it is from the freight village. Noting that the objective this policy sits under is to optimise the benefits of the regionally significant freight village facility at Crawford Street.
- Taken together, in my view the existing policy framework is enabling of the proposed zoning change, provided reverse sensitivity effects are properly considered and minimised.

#### **Future Development of Existing Industrial Properties**

2.53 Chartwell Investments Ltd, Ecostream Irrigation Ltd and Takanini Rentors Ltd confirm that most of their concerns regarding future development (as outlined in the Section 42A report) have been resolved. However, they consider that the proposed amendments to Rules 9.3 i. (restricted discretionary resource consent if an activity requires an air discharge consent from Waikato Regional Council and is within 100m of a residential zone) and 9.3 j. and k. (restricted discretionary or non-complying resource consent required for noxious and offensive activities, more than or within 250m respectively, from a residential zone)<sup>6</sup> do not resolve the issue and place an unfair burden on the existing industrial properties through the resource consents that may be required. As outlined in the evidence of Bevan Houlbrooke, they seek that the industrial areas be excluded from the requirements.

2.54 I do not agree that the District Plan should be amended to simply not require the resource consents for these activities due to the industrial area being already in existence. The potential adverse effects on future residents in the PC13 area as a result of emissions to air or other effects associated with noxious and offensive activities (such as hazards and safety) will remain. I consider that the amendments proposed by the applicant, which take into account the proposed 30m setback on the PC13 site, thereby reducing the applicable area in the industrial zone as outlined in the evidence of Mr Olliver, to be appropriate.

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<sup>6</sup> Rule 9.3 i (restricted discretionary activity) is only triggered where within 100m of a residential zone and is otherwise not triggered under the District Plan. Rule 9.3 j (restricted discretionary activity) is triggered for all noxious and offensive activities in this vicinity where they are more than 250m from a residential zone. Rule 9.3 k (non-complying activity) is triggered where noxious and offensive activities are within 250m of a residential zone.

- 2.55 A balance between the efficient use of underutilised land within an existing urban area, including the additional housing that can be provided, and the rights of existing properties to develop without additional restriction must be considered. In my view the additional resource consent requirements potentially placed on some industrial properties (noting that not all additional requirements will apply to all submitter properties given the distances, and some properties are already within the distances due to the existing retirement village), which would only apply if certain activities are proposed, do not impose an unfair burden on these properties. This matter is further commented on later in this addendum.

### **Land Supply Analysis**

- 2.56 Mr Houlbrooke, on behalf of Chartwell Investments Ltd, Ecostream Irrigation Ltd and Takanini Rentors Ltd is of the view that an evidence-based land supply analysis should be provided by the applicant to justify the proposed residential land use over other options such as industrial. This is supported in legal submissions for these submitters.
- 2.57 In my view a land supply or economic assessment is not required for the proposed rezoning. As outlined in the Section 42A report, there is a strong policy directive for residential development principally through the NPS-UD and the Waikato Regional Policy Statement (as is being amended through Change 1 to give effect to the NPS-UD). Further to this the applicant has assessed through the Section 32 analysis the considered alternative land use options for the site and has concluded the residential land use is most appropriate. In my view assessments such as those referred to by Mr Houlbrooke are most appropriate where confirmation is required as to quantum of a land use type in a particular location due to a potential effect resulting from that quantum. For example, determining the extent of commercial land in greenfields urbanisation, or assessing the demand for new commercial or industrial land in a particular location. These situations may result in an over or over supply of that particular land use which may have an adverse effect on other land uses or existing activities. The need for residential development is already well-established in the New Zealand resource management framework and does not need to be further justified by the applicant, other than to determine the appropriateness for the residential development on the site which has been completed through the section 32 analysis and other assessments.

### **Water Supply**

- 2.58 Fire and Emergency New Zealand (FENZ) have submitted on water supply and have confirmed in their letter dated 8 August 2023 that there is general acceptance of the recommendations in the Section 42A report.
- 2.59 Jackie Colliar from HCC has reviewed the letter from FENZ and the response of the applicant provided in the evidence of Hayden Vink (Appendix 4). Ms Colliar agrees with Mr Vink that the water modelling is fit for purpose and that future development in the racecourse precinct would need to be designed to meet with the Waikato Regional Infrastructure Specifications (RITS), therefore no site-specific District Plan rule is necessary.
- 2.60 On this basis I do not have any additional recommendations.

### **Stormwater Including Flood Hazard Provisions**

- 2.61 Kāinga Ora seek that the planning maps be updated to include the PC13 flood hazard area on the basis that the existing District Plan flood hazard provisions would apply, and separate flood provisions for the racecourse precinct would not be required.
- 2.62 I agree with Mr Campbell that it would be preferable to have all District Plan hazard provisions within the one chapter. However as outlined in the rebuttal evidence of Mr Olliver, the flood maps for the District Plan generally cover culvert block flood hazards and some other flood areas where flood modelling has been undertaken. I agree with Mr Olliver that inclusion on the precinct plan is an

effective method of spatially mapping the site-specific matters. As outlined by Mr Olliver, HCC has commenced wider flood mapping which will be used to support future Plan Change 14. Plan Change 14 may provide future opportunity to integrate the PC13 flood provisions into the city wide hazards chapter.

- 2.63 Mr Olliver recommends a minor wording change to Rule 4.8.13 as contained in the Section 42A assessment. I have no objection to this change.
- 2.64 Iain Smith has reviewed the evidence where it relates to stormwater on behalf of HCC (Appendix 5). He has confirmed his position that stormwater has been adequately addressed however he notes that an acoustic wall may have implications for the overland flow path. This matter needs further consideration in terms of the rule requirements and matters that can be deferred until resource consent stage as Mr Smith suggests.

#### **Wastewater**

- 2.65 Greg Cumming has reviewed the evidence of Mr Vink in terms of wastewater. He confirms that in his view there are no remaining wastewater issues to be determined through the plan change and reconfirms his earlier position that wastewater issues have been adequately addressed. He does note that HCC does not normally approve the construction of buildings over wastewater pipelines. This matter can be considered further at the time of resource consent.
- 2.66 On this basis I have no further recommendations in terms of wastewater.

#### **Crime**

- 2.67 Chartwell Investments Ltd, Ecostream Irrigation Ltd, Takanini Rentors Ltd and Murray J. V. Bindon raise concerns about potential crime resulting from the occupants of the future housing in the PC13 area.
- 2.68 The plan change outlines that the vision for the PC13 land is a high-quality development that is compatible with the racecourse and provides an attractive gateway and interface to racing activities<sup>7</sup>. The objectives for the site seek a variety of housing typologies, and the precinct plan includes a wetland and open space areas. There is no evidence at this stage that the type of development anticipated would likely result in criminal activity.

#### **Geotechnical**

- 2.69 The applicant's geotechnical evidence prepared by Aine Colson has been reviewed by Sian France and Ann Williams from Beca Ltd on behalf of HCC (Appendix 6). This review has also evaluated the applicant's geotechnical investigation report contained in Appendix H to the plan change as it was discovered the previous Beca review was based on an earlier version of that report. Ms France and Ms Williams advise they concur with the geotechnical recommendations of Ms Colson and confirm that in their view the site is suitable for residential development subject to appropriate site investigation, design, analysis and peer review at subsequent design and consenting stages.
- 2.70 On the basis of this assessment, I have no geotechnical related recommendations. Geotechnical matters will be further assessed at resource consent stage.

#### **RMA Section 32AA**

- 2.71 The evidence of Mr Olliver provides a Section 32AA evaluation in Attachment 2. The evaluation assesses the changes that have made to the application since the completion of the Section 32 evaluation.

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<sup>7</sup> Plan Change AEE document, page 9

- 2.72 The evidence of Mr Houlbrooke on behalf of Chartwell Investments Ltd, Ecostream Irrigation Ltd and Takanini Rentors Ltd states that further assessment is required in respect of Rules 9.3 i., 9.3 k. and j. and regarding the option of including Mainstreet Place as a primary access.
- 2.73 I do not agree that the option of Mainstreet Place needs to be included in the applicant's Section 32AA assessment as this option does not form part of the proposed plan change. If it is to be assessed under Section 32AA this should have been included within the evidence of Mr Houlbrooke. As this option is not supported in the Section 42A reporting (based on the evidence of Mr Black), no further assessment is provided.
- 2.74 The proposed amendments to Rules 9.3 i., 9.3 j. and 9.3 k. are assessed within Mr Olliver's Section 32AA evaluation. That evaluation states there are no identifiable economic costs associated with the proposed changes associated with these rules. I disagree with this assessment. Whilst there are no economic costs arising directly from the proposed rule change, there is an economic cost to some industrial properties who may have to seek resource consents for certain activities if the residential zone is established. These include:
- Properties within 100m of the residential zone where an air discharge resource consent from Waikato Regional Council is required, require resource consent from HCC as a restricted discretionary activity (Rule 9.3 i).
  - Properties within 250m of the residential zone where a noxious or offensive activity is proposed, require resource consent from HCC as a non-complying activity (Rule 9.3 k).
- 2.75 The additional resource consent costs need to be considered in the context of:
- Properties subject to Rule 9.3 i. (within 100m of a residential zone) would already require resource consent from Waikato Regional Council.
  - Properties subject to Rule 9.3 j. (more than 250m from a residential zone) already require resource consent as a restricted discretionary activity as per existing District Plan rules.
  - Noxious and offensive activities as defined within the District Plan have the potential to constitute a human health risk. They include animal rendering, septic tank disposal, burning of waste and the like. In my view, within the context of Te Rapa Road, where there is a large amount of commercial premises, a childcare facility, and other activities who may be sensitive to this type of activity already in existence, these types of activities are unlikely to be proposed in this general location.
- 2.76 I consider there are additional, potential costs to the industrial zone for some properties and activities, however I do not consider that the potential additional costs would be excessive or unfair, or likely to eventuate with respect to Rule 9.3 k.
- 2.77 I generally concur with the remainder of Mr Olliver's Section 32AA evaluation.

### **3 Recommendation**

- 3.1 Based on the evidence provided and the assessment outlined above, I make the following additional recommendations with respect to PC13:
- The need for an additional policy regarding the protection of the 30m setback from noise sensitive activities.
  - The building height be 15m plus the roof form allowance to align with the MDRS and PC12.
  - A height in relation to boundary standard of 4m/60 degrees. If the MDRS did not apply, I recommend a height in relation to boundary standard at the boundary with the retirement village of 3m/28 degrees.
  - A service area standard that requires 5m per unit, with the option to combine this for four or more residential units.
  - A requirement for an acoustic wall at the industrial zone boundary interface. This needs to be considered in terms of the overland flow path which exists at the southern boundary of the site.

- Additional assessment criteria regarding the insulation of low frequency and impulsive noise at the building façade.
- 3.2 I am happy to work with the applicant and submitters as required regarding suitable provisions for the above.
- 3.3 I remain of the view that PC13 can be approved subject to the above recommendations.

