

**IN THE MATTER** of the Resource Management Act  
1991

**AND**

**IN THE MATTER** of an application to **HAMILTON  
CITY COUNCIL** for private plan  
change 7 to the operative  
Hamilton City District Plan by  
**GREEN SEED CONSULTANTS  
LIMITED**

**SUBMISSIONS OF COUNSEL IN REPLY AND CLOSING  
FOR GREEN SEED CONSULTANTS LIMITED**

**1. INTRODUCTION**

- 1.1 On 20 October and 28 October 2021, the Panel heard evidence and submissions from Green Seed Consultants Limited ("Green Seed"), submitters, and Hamilton City Council ("the Council") officers in relation to the application for a private plan change (now Plan Change 7 - "PC7") to the operative Hamilton City District Plan ("District Plan").
- 1.2 These submissions in reply and closing are filed in accordance with the direction made at the conclusion of the hearing that this occur by 19 November 2021.

**Position of submitters at the hearing**

- 1.3 Of the 79 submitters on PC7, six presented evidence at the hearing, being five landowners from the locality (mostly more than 2km south of the PC7 land) and Waka Kotahi.

*Submitters from the locality*

- 1.4 The following submitters from the locality of the PC7 land attended the hearing and called evidence from planning consultant, Ms Perring:
- (a) Ms van Asbeck;
  - (b) Ms Moroney;
  - (c) Ms Thorley;
  - (d) Ms Barris; and
  - (e) Mr Withey.
- 1.5 These submitters are concerned about potential adverse traffic safety effects, particularly on the roads and intersections south of the PC7 area. It is relevant to note that four of all of the submitters who presented evidence own properties that are located at least 2km south of the PC7 area – as shown in the plan **attached** as **Annexure A**.

- 1.6 This is relevant in assessing traffic effects on those submitters<sup>1</sup> and their criticisms of Green Seed's consultation effort.<sup>2</sup> Ms van Asbeck is also concerned about access off the new collector road intersection with State Highway 39 ("SH39").

Waka Kotahi

- 1.7 Waka Kotahi's representatives, Mr Tindall and Mr Wood, presented evidence to the Panel on 20 October 2021. They advised that the matters raised in Waka Kotahi's submission have been adequately resolved through discussions with Green Seed representatives and confirmed that Waka Kotahi are in support of PC7.

**Position of section 42A reporting officers at the hearing**

- 1.8 At the outset of the hearing, Council's section 42A reporter, Mr Sharman indicated that:
- (a) As a result of further engagement between Green Seed and Council experts (including via expert conferencing), there are now no outstanding matters between those parties with respect to the proposed amendments to Chapters 4, 23, 25 and Appendices 1, 2, 9, 15 and 17 of the District Plan. The only outstanding matter related to Table 2 of Rule 3.6A.4.2(f), in Chapter 3 of the District Plan.
  - (b) He also confirmed that the amended PC7 provisions attached to the reply evidence from Ms Fraser-Smith and Mr Tollemache accurately reflect the agreements reached during caucusing.
  - (c) His recommendation remained to grant PC7 in accordance with the provisions attached to the reply evidence from Green Seed's planners, subject to amending Table 2 of Rule 3.6.4.2(f) as supported by Mr Black.

**Purpose and scope of reply submissions**

- 1.9 The purpose of these reply submissions is to address matters that arose during the hearing and set out Green Seed's position on the matters that remain in contention in an order that will (hopefully) best assist the Panel with its decision-making having regard to relative importance of the issues and the degree of contention remaining, as follows:
- (a) Maori cultural and spiritual matters;
  - (b) Traffic and transportation matters;
  - (c) Planning/urban design issues; and
  - (d) Other issues that require comment.
- 1.10 Specifically, these submissions address the following:
- (a) Maori cultural and spiritual considerations – consistency with Te Ture Whaimana (Section 2);
  - (b) Transport triggers and traffic safety (Section 3);
  - (c) Access from and design of the Collector Road/SH39 intersection (Section 4);
  - (d) Whether PC7 is consistent with the Future Proof Strategy ("FPS") and the operative Waikato Regional Policy Statement ("RPS") (Section 5);

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<sup>1</sup> Addressed in Section 3 of these submissions.

<sup>2</sup> Addressed in Section 10 of these submissions.

- (e) Whether it is necessary to show walking/cycling and public transport networks on the Rotokauri North Structure Plan ("RNSP") (Section 6);
- (f) Proposed affordable housing provisions (Section 7);
- (g) Urban design matters, being:
  - (i) Proposed duplex solution (Section 8); and
  - (ii) Provisions required to ensure design outcomes are achieved (Section 9);
- (h) Consultation issues (Section 10);
- (i) Potential implications of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill 2021 ("Bill") (Section 11);
- (j) Minor corrections and updating of provisions (Section 12); and
- (k) Green Seed's closing submission (Section 13).

## 2. **MAORI CULTURAL AND SPIRITUAL CONSIDERATIONS – CONSISTENCY WITH TE TURE WHAIMANA**

- 2.1 Messrs Hill and Matenga presented evidence to the Panel on 20 October 2021. Commissioner Solomon asked Mr Hill whether he was confident that Te Ture Whaimana had been complied with and that the ongoing relationship between mana whenua and Green Seed would be robust. Mr Hill's response was that Green Seed's approach has been "an exemplar" of how partnership with iwi can be achieved. He also confirmed that he was confident that Te Ture Whaimana and ongoing betterment of ecological restoration would be achieved.
- 2.2 These sentiments were echoed by Commissioner Watson who also noted that, ideally, consultation should be commenced at the very start of the process, with iwi being involved throughout the progress and refinement of a plan change, as Green Seed has done.
- 2.3 As outlined by Mr Noland, Green Seed intends to continue working in partnership with iwi through the Tanaga Whenua Working Group ("TWWG") as PC7 progresses, to ensure mana whenua values are recognised and protected, and any concerns raised are appropriately responded to.

### **Submission**

- 2.4 In light of the above, it is submitted that it is safe and appropriate for the Panel to make findings that:
  - (a) In developing PC7, Green Seed's efforts at fostering and maintaining a constructive working partnership with tangata whenua have been exemplary; and
  - (b) The measures to be adopted in implementing PC7 will appropriately addresses all relevant Maori cultural and spiritual matters arising in the context of the plan change and ensure the development is consistent with Te Ture Whaimana.

### 3. TRANSPORT TRIGGERS AND TRAFFIC SAFETY

#### Rule 3.6A.4.2(f) – Transport triggers

- 3.1 Messrs Sharman and Hills have confirmed that the only unresolved transport-related matter relates to the appropriate trigger for transport upgrades in Table 2 of Rule 3.6A.4.2f). In that regard, Messrs Hills and Black agree as to some of the upgrades that are required and the appropriate triggers for those.
- 3.2 However, as outlined in Attachment 4 to his "Statement of Evidence" dated 22 October 2021, Mr Black has requested the following upgrades (and triggers for those) be included in Table 2 of Rule 3.6A.4.2f):
- (a) Exelby Road south of Burbush Road - Additional upgrade to 9.5m sealed width after 700 dwellings/lots unless the minor arterial is constructed (Items 1a and 1b in Attachment 4 of Mr Black's evidence).
  - (b) Exelby Road north of Burbush Road – Upgrade to 7.7m sealed width after 500 dwellings/lots or the first dwelling with access on to Exelby Road (Item 2 in Attachment 4 of Mr Black's evidence).
  - (c) Burbush Road (between Rotokauri North and Exelby Road) - Additional upgrade to 9.5m sealed width after 700 dwellings/lots unless the minor arterial is constructed (Items 3a and 3b in Attachment 4 of Mr Black's evidence).
  - (d) Exelby Road/Rotokauri Road intersection – Upgrade to a roundabout after 500 dwellings/lots or the first dwelling with access on to Exelby Road (Item 5 in Attachment 4 of Mr Black's evidence).
- 3.3 Mr Hills does not agree with Mr Black. His expert opinion as regards the further upgrades in contention is set out in his two further reply statements of evidence, dated 28 October 2021 and 19 November 2021, the latter of which is **attached** as **Annexure B** (as discussed and agreed with the Panel during the hearing).
- 3.4 In summary, Mr Hills agrees that the additional measures/issues raised by Mr Black are important. However, he does not consider they can (or should) be addressed by way of specific transport triggers in the PC7 provisions, for the following reasons:
- (a) Mr Black's assessment assumes that no other roading links are created in Rotokauri South before all 2,000 dwellings are constructed in PC7. While it cannot be discounted completely, Mr Hills does not consider that, realistically, this scenario is likely to eventuate.
  - (b) Some of the safety issues that Mr Black has identified as giving rise to the need for specific upgrades can be addressed by reducing speed limits on Exelby and Burbush Roads in particular, to 60km/hr. This is something that the Council, as road controlling authority, will need to address. Thus, there can be no guarantees that a reduction in speed limits will occur but Mr Hills notes that Exelby and Burbush Roads are included as part of the Council's speed limit review for this financial year. As the Panel heard from submitters, this reduction is also strongly supported by local residents.
  - (c) Mr Black's recommendations are at least in part based on trying to retain the existing crash rates. While this is a laudable goal, in reality, any development that creates traffic will in some way increase potential vehicle conflict and thus have some safety effect. As such, it is not appropriate to expect that new developments will have absolutely no effect on traffic safety or address existing traffic safety issues (unless they will noticeably exacerbate those issues). Thus, the focus should be on avoiding serious and fatal crashes, rather than simply considering total injury crashes.

- (d) There is the potential for variability in the factor that should be used to calculate peak hour traffic volumes. Thus, there is an inherent level of uncertainty in trying to predict the future daily traffic volumes on Exelby and Burbush Roads, as demonstrated by the different (credible) calculations undertaken by Messrs Hills and Black respectively.
- (e) All traffic modelling results for Exelby Road north of Burbush Road show that the volumes of traffic along this corridor (fronting the PC7 land) do not exceed 1,500 vehicles per day ("vpd"), even with the PC7 land fully developed. This is well below the threshold of 2,500vpd when the road essentially changes classification (to a collector road) and requires upgrading.
- (f) The Rotokauri Road/Exelby Road intersection has no apparent safety record, no apparent efficiency issues, is some 3km from PC7, and the increase in traffic is likely a result of cumulative effects from vehicles from the neighbouring developments (as well as the PC7 site).

3.5 Mr Hills considers that the above factors and number of uncertainties regarding the future nature of the roading network make it difficult to identify the extent of all upgrades that might be required at this time, or the appropriate trigger for those upgrades. In his opinion, the need for any further upgrades on Exelby and Burbush Roads other than those shown in Items 1, 3 and 4 of Attachment 4 to Mr Black's evidence should instead be robustly assessed via the Integrated Transportation Assessment ("ITA") that will be required for any development on the PC7 land going forward.

3.6 This is summarised in of his further reply evidence dated 19 November 2021,<sup>3</sup> as follows:

*"(c) I consider it is important to note that Council will be involved in reviewing each ITA and that consent is required for each development proposed within the site. As such, there are limitations in place to restrict development in the PC7 area should the transport network not be able to cope with the additional traffic volumes. I therefore remain of the view that the best way to determine an appropriate upgrade is through the process of an ITA whereby each intersection / road outlined in the ITA is specifically assessed to determine if it can accommodate the additional volumes from the proposal at that time."*

3.7 While Mr Hills does not agree with Mr Black's additional triggers, he accepts that to further address the matters raised by Mr Black, Information Requirement 1.2.2.23g) (in Appendix 1 of the District Plan) should be amended to:

- (a) Require that the specific matters identified as needing to be addressed in ITAs for PC7 apply to all ITAs (not just "Broad" ITAs, as originally drafted);
- (b) Add an additional intersection in 1.2.2.23g) clause (i), being the Exelby Road/Lee Road intersection; and
- (c) Add an new requirement (1.2.2.23g) clause (iii)), requiring an ITA addressing the intersections listed in clause (i) to be provided, were the cumulative total of consented lots/units reaches 700.

3.8 These amendments are all included in the updated version of the PC7 provisions **attached as Annexure C.**

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<sup>3</sup> Further reply (19 November 2021) Hills, at [2.12(c)].

## Traffic safety

- 3.9 The main concern raised in the presentations from Ms Maroney, Thorley and Barris, and Mr Withey, was with respect to traffic safety. All four witnesses identified that there were existing safety issues with Exelby and Burbush Roads in particular and that they have been trying to get the Council to address those issues for some time. These concerns were reiterated by Ms Perring, from a planning perspective and based on her experience living in the area.
- 3.10 As regards the matters addressed by those submitters, it is necessary to consider the following:
- (a) The extent to which Green Seed can (and should) be required to address existing traffic safety issues;
  - (b) Why the initial upgrade trigger for Exelby Road (south of Burbush Road), Burbush Road and the Exelby Road/Burbush Road intersection of 500 dwellings/lots (as agreed by Messrs Hills and Black) is appropriate; and
  - (c) Management/mitigation of construction traffic effects.

### Responsibility for addressing existing traffic safety issues

- 3.11 Green Seed acknowledges the submitters' traffic safety concerns are genuine and well founded. It is also clear from their presentations that they have been seeking to have those concerns addressed via the relevant road controlling authorities for some time – and are (rightly) frustrated at the lack of action that has been taken in response.
- 3.12 That said, the crash data reported by both Messrs Hills and Black confirms that thankfully, these safety issues have to date not translated into a record of serious or fatal crashes. As Mr Hills records, there has only been one serious injury crash (and no fatal crashes) recorded in Waka Kotahi's Crash Analysis system for the Rotokauri North area over the period 2016 to present.<sup>4</sup> Mr Black further confirms that based on Waka Kotahi's Crash Estimation Compendium, the base scenario (with the existing 5.5m sealed width) for Exelby Road is a crash rate of 1.06 injury crashes per year.<sup>5</sup>
- 3.13 Further, despite Mr Black's disagreement, Mr Hills is entirely correct to state that PC7/Green Seed should not be responsible for essentially fixing a road to current Council standards, which has existing deficiencies. Put simply, caselaw is clear that neither the Council nor submitters can require Green Seed to resolve the existing and wider traffic safety issues in Rotokauri North, when (as Mr Hills' modelling shows), PC7 will not noticeably be adding to those.
- 3.14 In this regard, the leading authority is *Landco Mt Wellington v Auckland City Council*,<sup>6</sup> in which the Environment Court considered an appeal brought by the developers whose application for a private plan change in respect of the former Mt Wellington Quarry (now the Stonefields subdivision) had been declined by Auckland City Council. One of the issues raised on appeal was the adverse effects on the roading network of the additional traffic generated by the development.
- 3.15 In respect of that issue, the Court held as follows:

*"[9] That Auckland City has major and seemingly ever-increasing traffic problems comes as news to no one. Proposed solutions seem to come and go, being discarded as inadequate, unworkable or unaffordable, while the volume of cars and trucks on the roading network continues to grow.*

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<sup>4</sup> EIC Hills, at [4.20].

<sup>5</sup> EIC Black, at [35].

<sup>6</sup> *Landco Mt Wellington v Auckland City Council* [2009] NZRMA 132 (EC).

[10] *We need to begin this part of our decision by stating three clear premises. First, this appeal is not the opportunity to solve the traffic problems of Auckland City or even just the Tamaki Edge. The proposal stands or falls on its own merits, and its proponents are not required to resolve infrastructure problems outside its boundaries although they may be required to contribute, by way of financial contributions, to the cost of doing so.*

...

[18] *We are certainly not sanguine about the traffic situation, but then nobody is. The best that can be said about it is that the expert evidence is that the traffic effects within and immediately surrounding Stonefields can be managed effectively. It is for the Council and the other roading and transport organisations to manage the wider network, and public transport, to cope with the present loads and future growth, wherever in the region that might occur."*

(Emphasis ours.)

- 3.16 Subsequent Environment Court decisions have confirmed the approach taken in *Landco*. In particular, in *Laidlaw College Inc v Auckland Council* the Environment Court referred to the *Landco* decision, holding as follows:<sup>7</sup>

*"Whilst we agree with the general principle that an applicant is not required to resolve existing infrastructure problems, neither should it add significantly to them. The question is always one of degree depending on the facts of each case. The focus must be on the effects which arise from a particular proposal.*

*Therefore, in the context of this Plan Change, the Applicant needs to address any immediate localised traffic effects that arise in respect of the development enabled by the Plan Change and must not contribute significantly to wider infrastructure problems.*

(Emphasis ours.)

- 3.17 Having regard to Mr Hills' evidence, it is submitted that the upgrades offered by Green Seed (and the additional capacity that they will provide) is consistent with giving wider consideration to the network and are sufficient in the context of the development enabled by PC7. This is particularly the case when the traffic safety issues the submitters are concerned about actually relate to sections of road that are 2-3km south of PC7 and much closer to other existing and planned developments, including Rotokauri South and Rotokauri Rise. This is clearly illustrated on the plan **attached as Annexure A**, which shows the location of the properties owned by Ms Maroney, Thorley and Barris, and Mr Withey, in relation to PC7.
- 3.18 As is clear from the modelling Mr Hills has undertaken and his evidence, with the Collector Road/SH39 intersection in place, PC7 will not noticeably add to the traffic levels on Exelby or Burbush Roads, prior to 500 lots/dwellings being established or any connection from PC7 on to Burbush Road. That is why those events have been adopted (with the agreement of Mr Black) as the relevant triggers for:
- (a) Undertaking the seal widening on both Exelby Road (south of Burbush Road) and Burbush Road (between Rotokauri North and Exelby Road); and
  - (b) Upgrading the Exelby Road/Burbush Road intersection to a single priority intersection with right-turn bay.

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<sup>7</sup> *Laidlaw College Incorporated v Auckland Council* [2011] NZEnvC 248 (EC), at [38].

Appropriateness of trigger for Exelby/Burbush Road upgrades

3.19 The submitters have queried why:

- (a) The agreed upgrades to Exelby and Burbush Roads should not have to be completed prior to any development within PC7; and
- (b) Mr Black is now recommending the trigger for those upgrades be the establishment of 500 lots/dwellings, when he had previously sought the trigger be 200 lots/dwellings.

3.20 As outlined above, the trigger for the upgrades identified in paragraph 3.18 above has been agreed between Messrs Hills and Black on the basis of the extensive traffic modelling that has been undertaken for PC7. Notably, Rule 3.6A.4.2f) clause ii. of the District Plan (to be inserted by PC7) requires that:

*"...the first new dwelling/lot shall provide a collector transport corridor to SH39 and a new roundabout to that intersection with SH39."*

3.21 With that intersection in place, the modelling demonstrates that a minimal increase in traffic is expected to utilise the Exelby Road and Burbush Road link, with up to 500 dwellings constructed on the PC7 land. As Mr Hills outlined:<sup>8</sup>

*"Rather, the model demonstrates that it is more attractive for residents of the PC7 land with access only to SH39, to travel south using SH39 and SH1 rather than travel back to Exelby Road / Burbush Road. It is only when the internal link to Burbush Road is added within the PC7 land that this route becomes more attractive to residents to travel south."*

3.22 On that basis, it is submitted that the Panel has clear and uncontested evidence before it that:

- (a) The development provided for by PC7 will not result in any significant increase in traffic levels on the Exelby Road/Burbush Road link, or exacerbate any existing traffic safety issues on those roads, prior to them being upgraded in accordance with Table 2 of Rule 3.6A.4.2f) as proposed; and
- (b) Accordingly, there is no basis for requiring those upgrades to occur any earlier, as sought by the submitters.

Management/mitigation of construction traffic effects

3.23 The final key issue raised by the submitters who presented at the hearing was regarding management of construction traffic. In this regard, they noted concerns as to potential traffic safety and amenity (from dust and noise) effects, if there are large volumes of construction traffic using Exelby and Burbush Roads.

3.24 This matter was addressed in the reply evidence of Ms Fraser-Smith and Mr Tollemache which stated:

*"3.2 Ms Perring raises concerns (at paragraph 7.1 of her evidence) regarding the potential adverse effects from construction traffic and her perception that the operative HCDP fails to adequately address such effects. In our extensive experience of greenfield subdivision and development, construction traffic is regularly dealt with through the resource consent process and, in particular, the requirement for construction management plans (including provisions controlling construction traffic) ("CMP") or traffic management plans are imposed as conditions of consent."*

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<sup>8</sup> Reply Hills, at [3.6].



- 3.3 *We have reviewed the HCDP and note that there is only one structure plan area (Ruakura) that has a specific matter of assessment which requires a CMP to be imposed as a condition of consent. All of the other structure plan areas, including the recent Te Awa Lakes Structure Plan area, do not contain such specific provision.*
- 3.4 *Having reviewed the HCDP, we are satisfied that there is no "gap" regarding construction traffic that requires preparation of new or more specific provision. This matter is dealt with by the existing range of assessment criteria listed in Appendix 1.3.3. For example, the assessment criteria listed under "G" Transportation address the traffic effects from any proposal, including the type and nature of the traffic.*
- 3.5 *In summary, we consider that construction traffic is already a matter that is required to be addressed at resource consent stage, in accordance with the relevant assessment criteria. As such, there is no need for an additional subclause in standard 25.14.4.3n, as requested at paragraph 7.4 of Ms Perring's evidence."*

3.25 Ms Perring has appropriately acknowledged the correctness of this assessment, as follows:<sup>9</sup>

- "43 *I have reflected on Ms Fraser-Smith and Mr Tollemache's rebuttal commentary regarding construction management plans and accept that Construction Management Plans (CMP) are likely to be a requirement of subdivision consent conditions, and that it is appropriate to prepare these at the time of more detailed design."*

### **Submission**

- 3.26 It is submitted that, having regard to the evidence before the Panel, it can be satisfied that the proposed PC7 provisions (including the transport upgrades and triggers for those supported by Mr Hills):
- (a) Will adequately mitigate any traffic and transport effects (including construction traffic effects) from development of the PC7 land; and
  - (b) Adequately respond to the existing traffic safety issues identified by submitters.
- 3.27 Accordingly, it is further submitted that the Panel can safely find that the full extent of development enabled by PC7 can be appropriately supported by the existing road network and the proposed upgrades supported by Mr Hills, to ensure safety and operational efficiency.

## **4. ACCESS FROM AND DESIGN OF THE COLLECTOR ROAD/SH39 INTERSECTION**

- 4.1 This issue has been raised by Ms van Asbeck who owns 336, 338 and 360 Te Kowhai Road.
- 4.2 Ms van Asbeck's concern is that the roundabout for the proposed Collector Road/SH39 intersection will be opposite (and directly affect) 336 and 338 Te Kowhai Road. She is seeking to ensure that the proposed roundabout/intersection:

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<sup>9</sup> EIC Perring, at [43].

- (a) Appropriately accommodates safe access to her properties; and
  - (b) Does not exacerbate the existing water run-off/flooding issues that occur at the front (southern frontage) of her properties.
- 4.3 Mr Hills confirmed that:<sup>10</sup>
- (a) The existing Rotokauri Structure Plan has an intersection in this location, so this issue will arise regardless of whether PC7 is approved; and
  - (b) He is confident that a safe and efficient access arrangement can be found through detailed design at resource consent stage (and he provided an example of how such an access may work).
- 4.4 Under questioning, Mr Hills also confirmed that, in his experience, any changes to private accessways as a result of transport infrastructure upgrades would only be undertaken in consultation with the relevant landowner. In this instance, that consultation would cover both how access is to be provided and how the existing flooding issues could be addressed in conjunction with the design and installation of the roundabout (something which Ms van Asbeck advised she had already contacted Waka Kotahi about).
- 4.5 Green Seed acknowledges that the access issues Ms van Asbeck has raised must be addressed during the design of the Collector Road/SH39 roundabout. Given the roundabout is located on a State Highway and spans both Hamilton City and Waikato District, its design and construction will be the subject of various detailed engineering approvals and approvals under section 176 of the RMA.
- 4.6 Mr Hills has confirmed that there are feasible access options and that Ms van Asbeck will be consulted with respect to the design process. Green Seed is committed to working with Ms van Asbeck, Waka Kotahi and both councils through the intersection design process to ensure the intersection provides safe access to her properties and to resolve any flooding issues related to the construction of the roundabout.
- 4.7 The flooding on Ms van Asbeck's properties is an existing issue, not one which arises through the development facilitated by PC7. Nevertheless, construction of the Collector Road/SH39 roundabout provides an opportunity to resolve this issue as it relates to this section of road.
- 4.8 Mr Noland has met twice with Ms van Asbeck (via Zoom) and, although constructive, neither meeting produced outcomes that the Panel needs to be aware of or would affect the wording of PC7. In that regard, it is not appropriate to include any provisions in PC7 specifically requiring consultation with Ms van Asbeck in respect of the Collector Road/SH39 design.

### **Submission**

- 4.9 It is accordingly submitted that the Panel can safely and appropriately make findings that:
- (a) Feasible options exist for providing access to Ms van Asbeck's properties from the proposed roundabout which will be discussed with Ms van Asbeck during the design of the roundabout alongside Green Seed, Waka Kotahi, the Council and Waikato District Council.
  - (b) Green Seed will engage with Ms van Asbeck and Waka Kotahi during design of the roundabout with the aim of finding a solution to any existing flooding issue on her properties caused by this section of road.

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<sup>10</sup> Supra Note 4, at [7.5].

- (c) No further provisions need to be included in PC7, to ensure the matters raised by Ms van Asbeck are appropriately addressed.

**5. CONSISTENCY OF PC7 WITH THE FUTURE PROOF STRATEGY AND THE WAIKATO REGIONAL POLICY STATEMENT**

- 5.1 At the start of the hearing, Commissioner Solomon queried whether PC7 was consistent with the FPS. Given the extent to which RPS is based on (and incorporates) elements of the FPS, this query also extends to consistency with the RPS.
- 5.2 An assessment of PC7 against the FPS and RPS is contained in the evidence in chief ("EIC") of Mr Tollemache and Ms Fraser-Smith.<sup>11</sup> To reiterate, PC7 seeks to bring forward part of Rotokauri Stage 2 area (as identified in the FPS) by approximately 15 years. Thus, with respect of timing of the proposed development, PC7 is out of sequence with the FPS and RPS.<sup>12</sup>
- 5.3 The main implication arising from this change in timing is to ensure that the development can safely and adequately be serviced by all necessary infrastructure. On the basis of the evidence from Messrs Vodjansky and Hills, it is submitted that this will be the case. The only outstanding issue in this regard as between Green Seed and the Council is with respect to the triggers for further off-site transport upgrades. We have addressed that matter, and why the triggers proposed by Mr Hills are considered to be appropriate, in Section 3 above.
- 5.4 PC7 is otherwise entirely consistent with the guiding principles and key intentions of the FPS. The guiding principles are identified as being key to effective implementation of the strategy.<sup>13</sup> In summary, it is submitted that PC7 is consistent with these guiding principles, as the proposed development it enables will appropriately:
- (a) Manage reverse sensitivity;<sup>14</sup>
  - (b) Promote increased densities in a new residential development;
  - (c) Ensure the neighbourhood centre (in reliance of the evidence of Mr Heath) does not compromise existing economic areas of influence;
  - (d) Directly respond to the need for contribution to the housing stock and land supply<sup>15</sup> by providing housing and lifestyle choice with good urban design outcomes;
  - (e) Facilitate partnership with the TWWG to ensure that the values and place of tāngata whenua are recognised; and
  - (f) Utilise the best practicable option for avoiding adverse effects on water quality and ecosystems, by enabling restoration and ecological enhancement on the PC7 land to result in positive ecological effects.<sup>16</sup>
- 5.5 As a result, PC7 is also "out of sequence" with the RPS strategy for growth. Ms Fraser-Smith and Mr Tollemache have assessed the plan change against the development principles in Section 6A (Policy 6.19) of the RPS and concluded that PC7 is consistent with those principles, in particular for the following reasons:<sup>17</sup>

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<sup>11</sup> EIC Fraser-Smith and Tollemache, at [7.30] – [7.32] and [8.2] – [8.4].

<sup>12</sup> Ibid, at [8.3].

<sup>13</sup> Future Proof Strategy 2019, at 1.3.

<sup>14</sup> Summarised in EIC Tollemache and Fraser-Smith, at [8.4].

<sup>15</sup> Ibid.

<sup>16</sup> Ibid.

<sup>17</sup> Ibid, at [7.32].

- (a) As growth at Rotokauri North fall inside the identified Urban Limit, the growth is considered to support existing (and planned) urban areas rather than creating a new urban area.
- (b) The installation of new infrastructure to service the development will not compromise the safe, efficient and/or effective operation of any existing or planned infrastructure.
- (c) Effects on transportation infrastructure can be managed at resource consent stage, to align with specific development stages.

5.6 In summary, Green Seed's evidence makes clear that PC7 was carefully developed to ensure that it satisfies and is consistent with the guiding principles and overall objectives of the FPS, as well as relevant objectives, policies and the guiding principles of the RPS.

### **Submission**

5.7 It is therefore submitted that it is safe and appropriate for the Panel to make findings that:

- (a) Although PC7 is proceeding earlier than anticipated by the FPS and the RPS, Green Seed has ensured that it can appropriately be serviced by all necessary infrastructure.
- (b) PC7 is consistent with the guiding principles and overall objectives of the FPS and the relevant objectives and policies of the RPS.

## **6. PROVISION FOR WALKING/CYCLING AND PUBLIC TRANSPORT NETWORKS ON THE ROTOKAURI NORTH STRUCTURE PLAN**

6.1 In the section 42A report,<sup>18</sup> Mr Sharman recommended that an amendments should be made to PC7 to include a new structure plan diagram (Figure 2-9C), to indicatively display walking/cycling (including off-road walking/cycling) and public transport infrastructure networks.

6.2 This amendment was supported by both Waikato Regional Council ("WRC"), Messrs Kuo and Carnell, with respect to public transport matters) and the Council (Messrs Black and Gray).

### **Provision for walking/cycling networks on the RNSP**

6.3 As regards provision for walking/cycling networks, Mr Hills' confirmed that PC7 will include:<sup>19</sup>

- (a) Dedicated walking and cycling facilities along the proposed minor arterial (both sides);
- (b) Dedicated walking and cycling facilities along the proposed internal collector road network including 1.5 m wide on-road cycle lane and 1.8 m wide footpath (both sides); and
- (c) A shared 3m off-road path along Te Kowhai Road (non-State Highway section to the east of the site) extending between the SH39/Burbush Road roundabout and Mangaharakeke off-road shared path.

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<sup>18</sup> Section 42A report, at [9.10].

<sup>19</sup> Supra Note 4, at [5.1].

6.4 Ms Fraser-Smith and Mr Tollemache's evidence was that:<sup>20</sup>

- (a) With future development, a large number of interconnected local roads will also be established in accordance with the Council's subdivision standards, including park edge roads. These will form an important part of the active transport network.
- (b) In their view, requiring off-road active transport networks to be provided separate from the roads (and therefore access the rear of lots) will result in undesirable urban form outcomes.
- (c) There is no need for the active transport network (either on-road or off-road) to be indicatively shown on the RNSP on the basis that the District Plan provisions and subdivision design criteria (in Appendix 1.4) already require the provision of walking/cycling facilities, including connectivity between green corridors and transport corridors.

6.5 This was confirmed by Mr Munro, who likewise advised<sup>21</sup> that he had concerns about, and recommended against, specifying off-road pedestrian/cycle linkages on the RNSP, for similar reasons.

6.6 This matter was accordingly addressed during expert caucusing, as recorded in the Transportation Joint Witness Statement ("JWS") dated 12 October 2021. As recorded in the reply evidence from Ms Fraser-Smith and Mr Tollemache, the outcome of those discussions was as follows:<sup>22</sup>

*"4.3 The JWS Transport dated 12 October 2021 outlined revised matters of assessment to replace the Rule 3.6A.4.5 provisions recommended in the section 42A report. Final agreement on the assessment criteria (now inserted as 1.3.3 O3 i)) was reached via email from Mr Sharman on behalf of HCC on 14 October 2021 alongside agreement to delete the "figure" and/or structure plan for walking and cycling recommended in the section 42A report."*

6.7 In accordance with this agreement, Mr Sharman similarly confirmed at the beginning of the hearing that it did not serve any purpose to try and articulate the future active transport network at the scale of the RNSP - this can appropriately be addressed at resource consent stage.

#### **Provision for public transport networks on the RNSP**

6.8 A similar outcome has been reached with respect to the Council and WRC's preference for the RNSP to include indicative public transport routes.

6.9 As Mr Hills outlined in his EIC:<sup>23</sup>

*"8.37 Mr Black has suggested changes to the Rotokauri North Structure Plan (Figure 15 of his report) which essentially includes identification of future bus routes and generally public transport infrastructure (e.g. bus stop, shelters). In my experience with residential subdivisions, it is not usual (or necessary) to be provided with and allow for exact bus routes and specific details of bus infrastructure, at the plan change stage.*

*8.38 Bus routes typically change and evolve within developing areas, and it is thus my opinion that exact bus routes do not need to be defined in the Rotokauri North Structure Plan. However, I do*

<sup>20</sup> Supra Note 11, at [10.42] – [10.54].

<sup>21</sup> EIC Munro, at [2.13].

<sup>22</sup> Reply Fraser-Smith and Tollemache, at [4.3].

<sup>23</sup> Supra Note 4, at [8.37] – [8.39].

*accept that key roads should be designed to allow bus routes to occur in future (which in this case are all the Collector Roads).*

*8.39 Regardless of this, WRC has indicated they would prefer at least "indicative" bus routes and stops to be shown in the Rotokauri North Structure Plan. This has now been included in the latest version of that plan, as attached to the evidence of Mr Tollemache and Ms Fraser-Smith."*

6.10 From a planning perspective, Ms Fraser-Smith and Mr Tollemache agreed with Mr Hills' view in that regard; their EIC states:<sup>24</sup>

*"10.31 No evidence has been provided to demonstrate that WRC has confirmed that the map prepared by Mr Black and Mr Grey would in fact be the final route.*

*10.32 In our view, it is contrary to sound planning to apply a district plan rule that requires consistency with a bus route identified on a map when it is acknowledged that this is dependent on a range of factors and might change.*

*10.33 We consider that it is more appropriate for this matter to be addressed as a matter of discretion for subdivision."*

6.11 This matter was also discussed during expert caucusing, as recorded in the Transportation JWS dated 12 October 2021. The outcome of those discussions is as follows:

- (a) Recommended Rule 3.6A.4.4 (from the section 42A report) be deleted and replaced by a new matter of assessment relating to the provision of public transport; and
- (b) New Figure 2-9C be included in the RNSP maps, but noted as being for information only (and not a Structure Plan map).

### **Submission**

6.12 In light of the above, it submitted that it is safe and appropriate for the Panel to make findings that:

- (a) Any outstanding matters of contention in relation to showing active mode and public transport networks on the RNSP have been satisfactorily resolved; and
- (b) The agreed provisions can be incorporated into the District Plan via PC7.

## **7. AFFORDABLE HOUSING PROVISIONS**

7.1 Commissioner Hill raised a query as to why the affordable housing provisions proposed by way of PC7 (Rule 3.6A.4.1) use 90% of the average Hamilton City residential house value as the affordability criteria. He noted that this contrasted with the threshold commonly adopted in Auckland, which is 75% of the median house price.

7.2 The answer stems from the provisions of the Housing Accords and Special Housing Areas Act 2013 ("HASHAA"). As the Panel will be aware, the HASHAA provided for land to be gazetted as a Special Housing Area ("SHA"). Once a SHA was gazetted, applicants could seek resource consent for a qualifying development in that area under HASHAA, rather than using the standard RMA consenting process.

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<sup>24</sup> Supra Note 11, at [10.31] – [10.33].

- 7.3 Under the HASHAA, a qualifying development was defined as one which (*inter alia*) contained not less than the percentage of “affordable dwellings” as prescribed in the Order in Council by which the SHA was created. However, the HASHAA did not contain a definition of “affordable” – this was left to individual councils to determine.
- 7.4 As Commissioner Hill correctly recalled, Auckland Council decided to adopt two alternative affordability criteria, being:
- (a) Relative affordable – Sold for less than 75% of the Auckland median house price; and
  - (b) Retained affordable – Sold at a price where a household earning the median Auckland income would spend less than 30% of their income on mortgage repayments (assuming 10% deposit, 30-year term).
- 7.5 These were the two criteria that were accordingly included in the Orders in Council for SHAs within Auckland (including the SHA for the initial stage of the Auranga development in Drury). Most developers preferred the “relative affordable” option, hence this being the one Commissioner Hill is most familiar with.
- 7.6 By contrast, Hamilton City adopted the following affordability criteria:
- “At least 10% of dwellings must be sold at or below 90% of the Hamilton average house value (where ‘average house value’ means the average Hamilton City residential house value for the most recently released June figure published by Quotable Value).”*
- 7.7 This affordability criteria is not included in the Order in Council dated 3 April 2018 by which Rotokauri North was gazetted as a SHA. However, it is included in the private development agreement between Green Seed and the Council for that development; hence why it has been adopted for the purposes of the PC7 provisions.
- 7.8 As the Panel will be aware, the same affordability criteria have also been adopted for the Te Awa Lakes Medium-Density Residential zone (see Rule 4.8.8 of the District Plan).
- 7.9 Finally, we note that Mr Sharman confirmed the Council was taking a neutral stance with respect to the issue of affordability provisions and these have not otherwise been raised by any submitter.

### **Submission**

- 7.10 Having regard to the above, it is submitted that it is safe and appropriate for the Panel to make findings that:
- (a) There are no outstanding issues regarding the affordable housing provisions proposed by Green Seed; and
  - (b) These provisions can be incorporated into the District Plan in their current form.

## **8. URBAN DESIGN MATTERS – PROPOSED DUPLEX SOLUTION**

- 8.1 In his urban design memorandum (part of the section 42A report), Mr Hattingh supported both the Acceptable Solutions Code and provision of affordable duplex units, as proposed by Green Seed. However, he disagreed with Mr Munro that accommodating two cars per duplex (i.e. one per unit parked side by side, accessed by a double width vehicle crossing located to one side of the site) would not create greater adverse streetscape or pedestrian amenity effects than those from a standard house.

8.2 In this regard, Mr Hattingh stated<sup>25</sup> as follows:

*"In my opinion, this will create a poor outcome for the resident(s) of the unit that has the carparking area in front of their unit and could cause a variety of unintended outcomes..."*

8.3 By way of response, Mr Munro stated as follows:<sup>26</sup>

*"2.7 The specific duplex housing solution that is sought to be enabled at proposed Rule 4.14 has been arrived at by myself and Mr. Tollemache working through the various design issues of this form of housing since 2014 in Auranga (the Drury 1 Precinct), south Auckland. It is not experimental or untested; the duplexes in question have been built and are occupied (over 30 are complete, and 100 are consented). It is, in my opinion, the optimal duplex design solution where front-loaded vehicle access is used.*

*2.8 Specifically, the concept of other people's car parking space(s) being located in front of another person's dwelling is very common in many forms of medium density housing and in the case of the proposed duplex typology I am aware that purchasers of these units in the Drury 1 precinct have reported no nuisances or objections to date.*

*2.9 Overall, I suggest that the Council's officer's assumptions about what future occupants might prefer are misplaced."*

8.4 Despite this disagreement, expert conferencing on urban design matters was not considered necessary. Nor were any amendments to the PC7 provisions agreed in order to address this matter, via the planning expert conferencing. Rather, the parties have agreed that this issue can be appropriately resolved through the resource consent process. That is, this issue does not require any further amendments to the PC7 provisions (and nor would such amendments be appropriate).

8.5 This outcome is captured in Mr Sharman's Summary Statement, in which he stated as follows:<sup>27</sup>

*"The format of Rule 14.4 provides for duplex dwellings in accordance with the Acceptable Solutions Code as a permitted activity, whilst other duplex layout options can be progressed through a restricted discretionary activity consenting process. This is an appropriate means of assessment and enables future consenting processes to be the forum for discussion around the suitability of various layouts."*

### **Submission**

8.6 There are accordingly no outstanding matters regarding the proposed duplex solution and it is submitted that it is safe and appropriate for the Panel to find that this issue has been resolved without any need to amend those provisions.

## **9. URBAN DESIGN MATTERS – ENSURING THAT DESIGN OUTCOMES ARE ACHIEVED**

9.1 Commissioner Watson asked both Messrs Sharman and Munro whether they considered that the PC7 provisions gave the Council sufficient control to secure the intended (and desired) design outcomes for Rotokauri North, e.g., in terms of the use of rear lanes and appropriate duplex solutions.

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<sup>25</sup> Page 5 of the urban design memorandum.

<sup>26</sup> Supra Note 21, at [2.7] - [2.9].

<sup>27</sup> Summary Statement Sharman, at [27].



- 9.2 Both witnesses:
- (a) Agreed that they did, given the combination of integrated density and design provisions proposed; and
  - (b) Considered that the provisions are sufficiently certain to understand and apply and will be sufficient to ensure that, for example, the Council could preclude unlimited parking along the street frontage.
- 9.3 However, Mr Munro also indicated that if the Panel still had concerns in that regard, he would not have any objection to the Panel implementing more stringent provisions than those proposed by Green Seed.

### **Submission**

- 9.4 In light of the above, it is submitted that is safe and appropriate for the Panel to make findings that:
- (a) There are no outstanding matters between the Council and Green Seed as to the provisions required to secure appropriate urban design outcomes from development of the PC7 land; and
  - (b) No further amendments required to the PC7 provisions as proposed in order to address this issue.
- 9.5 However, if (b) is not accepted, Green Seed does not oppose some strengthening of those provisions by the Panel.

## **10. CONSULTATION ISSUES**

- 10.1 In presenting to the Panel, Ms Maroney, Thorley and Barris, and Mr Withey all noted that they had not been consulted with regarding the Rotokauri North project or invited to any public meetings in this regard. They therefore queried Green Seed's commitment to public engagement, as outlined in Mr Noland's evidence.
- 10.2 It is correct that those submitters were not personally invited to the Public Open Day that was held on 10 November 2019 (although they were of course welcome to attend). Nor have they been directly contacted by Green Seed representatives.
- 10.3 This is because Green Seed focused its consultation efforts on those parties identified by Tollemache Consultants as being directly affected by PC7, in their notification assessment dated April 2019. As outlined in the copy of that assessment **attached** as **Annexure D**, the parties identified by Tollemache Consultants were:
- (a) A range of statutory bodies/organisation; and
  - (b) All landowners both within and directly adjacent to the PC7 area.
- 10.4 As shown in the plan **attached** as **Annexure A** (and addressed above) all four submitters who raised consultation issues own properties that are located at least 2km south of the PC7 area. As outlined in Section 3 above, Green Seed accepts that these submitters have raised valid traffic safety issues, which should be addressed. However, those are existing issues, not issues which will be created (or exacerbated in any noticeable way) by PC7 given the transport triggers that Mr Hills has proposed.
- 10.5 That is why their properties were not identified as potentially affected parties in Tollemache Consultants' notification assessment and they were not personally invited to the Community Consultation Open Day. That said, the submitters all subsequently received limited notification of PC7 (based on the Council's limited notification

assessment) and accordingly, had the opportunity to make a submission and be heard in respect of PC7 (which they have elected to avail themselves of).

- 10.6 Having regard to the above, Green Seed maintains its position (as outlined by Mr Noland) that the consultation process for PC7 has been robust and adequate having regard to the scale and potential effects arising from PC7. Accordingly, it is submitted that the Panel can have no concerns in that regard, or that there are any potentially affected (or interested) parties who have not had the opportunity to present before them.
- 10.7 Further, Green Seed reiterates that it is committed to ongoing consultation and discussions with submitters and affected landowners as PC7 progresses, as this is fundamental to its core pillar of creating strong, integrated communities.

### **Submission**

- 10.8 On the basis of the above, it is submitted that the Panel can safely and appropriately make findings that:
- (a) There can be no valid criticism of Green Seed for not directly engaging with all landowners within a 2-3km radius of the 140ha PC7 area; and
  - (b) Irrespective of whether there had been any pre-notification consultation, the submitters have had adequate and appropriate opportunity to participate in the plan change process.

## **11. POTENTIAL IMPLICATIONS OF THE RESOURCE MANAGEMENT (ENABLING HOUSING SUPPLY AND OTHER MATTERS) AMENDMENT BILL 2021**

- 11.1 The Bill was introduced on 19 October 2021, in order to bring forward and strengthen the implementation of the National Policy Statement on Urban Development 2020 ("NPSUD"). In this regard, the Bill proposes to:
- (a) Introduce consistent Medium Density Residential Standards ("MDRS") in the country's main urban areas, to enable development of three homes of up to three storeys on most sites without resource consent;<sup>28</sup> and
  - (b) Introduce a new planning process to support Tier 1 Councils (including the Council) to implement the NPSUD faster, called the Intensification Streamlined Planning Process ("ISPP").<sup>29</sup>
- 11.2 As the Bill is currently drafted, the MDRS will become operative when they are notified in August 2022 (i.e., before submissions are made and heard on the plan changes by which the MDRS are introduced).
- 11.3 The Explanatory Note to the Bill states, in relation to plan changes:<sup>30</sup>

*"For this reason, the Bill requires that proposed plans, or private plan changes accepted, must be withdrawn where it can be determined that the proposed instrument –*

- *Intends to give effect to intensification policies of the NPS-UD;*
- *Proposes changes to a residential zone that will be subject to the MDRS;*

<sup>28</sup> Bill, cl 7, inserting new sections 77E to 77P into the RMA.

<sup>29</sup> Ibid, cl 8, inserting new subpart 5A into Part 5 of the RMA.

<sup>30</sup> Ibid, Explanatory note and cl 31, inserting new Part 4 into Schedule 12 of the RMA.

- *Creates a new relevant residential zone that does not incorporate the MDRS; and*
- *Has been notified on or before the enactment of the Bill but a hearing under clause 8B of Schedule 1 is not completed on or before 20 February 2022.*

*Territorial authorities will be required to use clause 8D of schedule 1 of the RMA to withdraw those plan changes or proposed plan variations."*

(Emphasis ours.)

- 11.4 As PC7 adopts and relies on the District Plan's Medium Density Residential Zone, any amendments to those provisions required as a result of the Bill will occur via any plan change that the Council is required to notify in accordance with the Bill.
- 11.5 As such (and addressed verbally in opening, the day following the introduction of the Bill):
- (a) The Bill presently has no implications for PC7, unless it is enacted before the Panel issues its decision on PC7.
  - (b) On the assumption (as is likely) that the Bill is enacted in advance of the Panel's decision issuing, the only implication of the Bill is that it would require PC7 to be withdrawn if the hearing is not 'completed' by 20 February 2022.
  - (c) When a hearing is 'completed' is not defined in the Bill; i.e. whether a hearing simply needs to have been closed, or whether a decision made on the private plan change. However, counsel submits that, until advised otherwise officially, we need to assume the worst – that a decision needs to be released by that date.
- 11.6 Counsel will attempt to gain some clarity in relation to this issue and will advise the Panel if we do so.
- 11.7 The Panel has kindly signalled that its decision will be available by 20 February 2022, for which Green Seed is most grateful.
- 11.8 Given that "completed" probably means the close of the hearing, we also request that the Panel make an observation when it advises the parties of the close of the hearing along the lines that:

*"In closing the hearing, the Panel has made the assumption that the hearing is now "completed" in terms of new Part 4 that is to be inserted into Schedule 12 of the RMA, in accordance with Clause 16 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill 2021."*

- 11.9 Although such an indication would not override the legislation if "completed" were held to mean 'decision issued', it may assist if any issue arose in that regard.

### **Green Seed request**

- 11.10 Thus to avoid any possible suggestion that PC7 needs to be withdrawn, Green Seed:
- (a) Reiterates its respectful request to receive a decision on PC7 in advance of 20 February 2022; and
  - (b) Further requests that, when closing the hearing, the Panel makes a statement along the lines outlined above.

## 12. MINOR CORRECTIONS AND UPDATING OF PROVISIONS

12.1 Two minor corrections to the PC7 provisions have been agreed between Green Seed's planners and Mr Sharman, regarding the following:

- (a) The assessment criteria provisions for service courts for apartments in Assessment Matter 1.3.3 O7 (in Appendix 1 of the District Plan). This criteria should be amended so that applies to all apartments, not just apartments above ground.
- (b) The heading for Rule 3.6.A.4.5. In order to better reflect the content of this rule, the heading should be amended to read as follow: "*Staging and Infrastructure Provision Activity Status and Assessment Matters*".

12.2 Both these minor corrections (as well as the additional requirement for an ITA when the cumulative total of consented lots/units reaches 700, as outlined above) are explained in more detail in the further reply evidence of Ms Fraser-Smith and Mr Tollemache **attached** as **Annexure E**. They are also included in the updated (and final) version of the PC7 provisions **attached** as **Annexure C**.

## 13. GREEN SEED'S CLOSING SUBMISSION

13.1 In closing, it is Green Seed's respectful submission is that the hearing did not give rise to any further developments or issues which alter the position taken in our opening legal submissions. As such, Green Seed's fundamental position remains that there is no impediment to PC7 proceeding and that significant benefits will ensue if it does proceed.

13.2 To that end, it is according appropriate to reiterate that Green Seed's principal submission remains as set out in paragraphs 14.2 and 14.3 of our Opening submissions, as follows:

*"14.2 In this regard, Green Seed submits that:*

- (a) *The objectives and policies sought to apply to the PC7 land:*
  - (i) *Appropriately give effect to all applicable higher order planning instruments (including all national policy statements and national environmental standards, and regional policy statements); and*
  - (ii) *Are not inconsistent with any directive objectives, policies or constraints from such higher order instruments.*
- (b) *The rules that will apply to the PC7 land as a result of the change in zoning appropriately implement the policies sought to apply to the site.*

*14.3 Green Seed further submits that it is appropriate that the above submission be accepted, on the basis that:*

- (a) *In terms of section 32 of the RMA:*
  - (i) *The proposed objectives are the "most appropriate" means of achieving the purpose of the RMA; and*
  - (ii) *The proposed provisions are the most appropriate way to achieve the objectives of the HCDP.*

- (b) *Acceptance of the submission would result in changes to the HC DP that are in accordance with HCC's functions under section 31 of the RMA.*
- (c) *Approving PC7 would be consistent with and promote the sustainable management purpose of the RMA, particularly as:*
- (i) *Any potential adverse effects can be avoided, remedied, or mitigated as necessary through:*
- *Appropriate siting of the proposed zones;*
  - *Introduction of clear and directive, site-specific objectives and policies;*
  - *Application of the rules applying to each zone; and*
  - *Conditions at the resource consent stage.*
- (ii) *Use and development of the site as proposed by PC7:*
- *Represents an efficient use and development of the site and its natural and physical resources; and*
  - *Can be undertaken in a manner that ensures that its values and the quality of the environment are maintained or enhanced."*

13.3 The entire Green Seed team again thanks the Panel for the constructive and efficient manner in which the hearing has been run. We wish you well for your deliberations.

Dated 19 November 2021



**S J Berry**

**Counsel for Green Seed Consultants Limited**