

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of a submission by Hamilton City Council in respect of the PROPOSED WAIKATO DISTRICT PLAN pursuant to Clause 6 of Schedule 1 to the Act

**STATEMENT OF EVIDENCE OF LAURA JANE GALT ON BEHALF OF HAMILTON
CITY COUNCIL**

17 March 2020

Hearing 12: Country Living Zone

INTRODUCTION

1. My full name is Laura Jane Galt. I am an Intermediate Planner at Hamilton City Council ('HCC'). I have been a planner at HCC for approximately 13 years.
2. I have over 13 years' policy planning experience in local government under the Resource Management Act 1991 ('RMA').
3. My qualifications include a Master of Environmental Planning from the University of Waikato (2011), and a Bachelor of Social Science with Honours from the University of Waikato (Resource and Environmental planning, 2006). I am an intermediate member of the New Zealand Planning Institute.
4. HCC made submissions and further submissions on Chapter 23: Country Living Zone ('CLZ') which is the subject of Hearing 12.

RELEVANT EXPERIENCE

5. My experience spans a variety of planning practice including:
 - a) Making submissions on proposed district plans and resource consent applications;
 - b) Environment Court mediation on cross boundary resource consents;
 - c) Authoring s42A reports for in district plan review and plan change processes; and
 - d) Participation in various district plan review and plan change hearings.

CODE OF CONDUCT

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

SCOPE OF EVIDENCE

7. The purpose of this evidence is to address:
 - a) The submission points made by HCC that are relevant to Hearing 12;
and
 - b) The response to the HCC submission points in the s42A report for Hearing 12.

SUMMARY OF EVIDENCE

8. HCC made submissions and further submissions on the CLZ which is the subject of Hearing 12.
9. Hearings 1 and 2 addressed the relief HCC sought with regard to the issues that should be addressed through the district plan process. Hearing 3 focused on the strategic framework of the district plan, where all subordinate planning directions cascade from. I refer to some of those matters in my evidence for Hearing 12 as they provide important context for the relief sought by HCC in the Chapter 23: CLZ.
10. There are two key submission points relating to the CLZ that is the focus of my evidence. HCC's submission 535.75 on Rule 23.1.2 D3 seeks to maintain

the primacy of existing commercial centres by confining commercial activities to Business Zones. This is a critical issue for HCC as almost all of the CLZ is located near Hamilton or near main towns. Accordingly, the basis for the relief HCC seeks is to ensure that any commercial activities that establish within the CLZ are limited to providing a local service at a scale that provides for the day-to-day needs of a community and that larger commercial activities are directed and located in existing business zoned land so as not to adversely impact on existing centres.

11. While I agree with the s42A report that the discretionary activity status for commercial activities in the CLZ is appropriate, this is only if the supporting policies are sufficiently strong to protect against the establishment of inappropriate commercial activity in the CLZ. The current policy framework does not achieve this. HCC seeks that CLZ Policy 5.6.8 be amended to require that commercial activities seeking to establish in the CLZ do not undermine the policies in the Business and Business Town Centre Zones. In particular, Policies 4.5.2, 4.5.3 and 4.5.4.
12. HCC's submission point 535.77 on Rule 23.4.1 sought that the prohibited activity status for subdivision in the Urban Expansion Area ('UEA') in the CLZ be retained as notified in order to protect the land resource which will be transferred to HCC in the future. The s42A report recommends amending Rule 23.4.1 so that subdivision moves from prohibited to discretionary activity status.
13. The s42A author's approach to Rule 23.4.1 is flawed. The author's reasoning for the recommendation misses the fundamental point of HCC's submission 535.77. The provisions of the UEA provide a critical statutory means to achieve the outcomes of the Strategic Agreement. The basis for the UEA provisions, and HCC's interest in protecting the land resource, is about giving HCC the best chance to urbanise the land in the most effective and efficient manner after it is transferred. The potential low yield of

additional lots is immaterial to determining the most appropriate activity status within the UEA to achieve that objective.

14. Any further fragmentation of the land will degrade the resource and HCC's ability to retrofit the land for future urbanisation purposes. Further, subdivision in the Rural Zone in the UEA is prohibited. The same reasons for the prohibited activity status in the Rural Zone equally apply in the CLZ. I consider that the prohibited activity status is the most appropriate activity status for the CLZ land in the UEA.
15. I agree with the other recommendations recorded in the s42A report concerning HCC's submission points as set out in Table 1 below.

DOCUMENTS AND MATERIAL CONSIDERED

16. In preparing my evidence, I have considered the following information:
 - a) The RMA;
 - b) National Policy Statement for Urban Development Capacity 2016 ('NPS-UDC');
 - c) Draft National Policy Statement for Urban Development 2019;
 - d) Operative Waikato Regional Policy Statement ('WRPS');
 - e) The Waikato District Operative District Plan 2011 ('WDODP');
 - f) The Waikato District Proposed District Plan 2018 ('WDPDP') and Section 32 analysis;
 - g) Section 42A reports for Hearings 3, 5 and 10;
 - h) Relevant submissions by:

- i. 1287 Blue Wallace Surveyors Ltd;
 - ii. 1333 Fonterra
 - iii. 1384 Mercury NZ Ltd
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- i) Future Proof Growth Strategy 2009 and the 2017 review;
 - j) Statement of evidence of Luke O'Dwyer dated 15 October 2019;
 - k) Statement of evidence of Alice Morris dated 15 October 2019; and
 - l) Statement of evidence of Loren Brown dated 25 November 2019.

HCC SUBMISSIONS – RELEVANT TO HEARING 12

- 17. The s42A report for Hearing 12: Country Living Zone dated 3 March 2020 addresses three submission points made by HCC: summarised as 535.55, 535.75 and 535.77 in the Waikato District Summary of Submissions. These submissions are addressed in Table 1 below.
- 18. HCC made submissions on matters that I consider to be relevant to this hearing and to the future hearings which were not addressed in the s42A report. As per verbal instructions to submitters at a hearing on 6 November 2019, the Hearings Panel advised it was useful to raise these at this early stage, recognising that these too will need to be addressed again during other relevant upcoming hearings. The additional submissions I consider to be relevant are submission points: 535.9, 535.13, 535.14, 535.53 and 353.54 (which were allocated to Hearing 3 on Strategic Objectives); 535.70 - prohibited land use in UEA; and further submissions allocated to the Zone extents hearing.
- 19. Each of these will now be addressed, not necessarily with any expectation they will be determined in the Hearing 12 process. Rather, they are raised

to provide the wider context for HCC's interest in the CLZ and how the CLZ provisions intersect with other parts of the WDPDP.

20. The suite of submissions made on the CLZ and the Strategic Objectives of the WDPDP, when considered in their entirety, paint a clearer picture of the full extent of the issues relevant to HCC than the individual points do.

Submissions on the Strategic Objectives

21. In HCC's submission on the WDPDP, an 'Area of Interest' was referred to as the broad geographic area, near to the boundary with HCC where there is a high potential for land use and subdivision to affect wider strategic planning, including planning for infrastructure needs and on-going maintenance, undertaken by HCC. The Area of Interest is marked on the map included as Attachment 2 to the Statement of Evidence of Mr Luke O'Dwyer dated 15 October 2019 presented in Hearing 3. I rely on the opening legal submissions to the Hearings Panel presented on behalf of HCC on 30 September 2019 by Mr Lachlan Muldowney, along with the evidence of Mr O'Dwyer for Hearing 3, for the detailed explanation of how the extent of the Area of Interest was determined.
22. HCC's submission point 535.9 sought the overarching relief for the management of land uses around its boundaries within HCC's Area of Interest. The key outcome sought in HCC's submission was the protection of rural land through the avoidance of rural land fragmentation and by ensuring growth is directed to identified growth cells. HCC does not propose that development be prohibited in the CLZ or Rural Zones. Rather, as a means of achieving the outcome sought in its submission, HCC provided a suite of objectives and policies in the evidence of Ms Alice Morris dated 15 October 2019 in Hearing 3 to ensure that growth and development within HCC's Area of Interest appropriately manages non-rural land uses and provides for efficiently-integrated infrastructure.

23. Hearing 3 also addressed HCC submission points 535.13 and 535.14, Policies 4.1.3 a) and b) – Location of Development. HCC sought the following amendment to Policy 4.1.3(a) (shown in underline):

Subdivision and development of a residential, commercial and industrial nature is to occur within towns and villages where infrastructure and services can be efficiently and economically provided in a coordinated manner with other developments; and

24. Infrastructure is critical to enable growth and must be carefully and sustainably managed from a cross-boundary perspective. As provided in the evidence of Ms Morris for Hearing 3:¹

When that infrastructure is sourced from outside the district, the sustainability of both the land resource of the district and where the infrastructure is sourced from must be addressed. If there is no coordination on infrastructure matters, the sustainability of Hamilton's land resource could be impacted.

25. HCC supports the growth pattern set out in Future Proof and the WRPS. Allowing development outside of defined growth areas results in ad hoc development which creates unanticipated demand for urban services (transport & 3 waters). Substantial growth outside the defined urban areas is unsustainable and compromises the Future Proof and WRPS settlement patterns. HCC's submission seeks to avoid that outcome.

UEA

26. The Strategic Agreement on Future Urban Boundaries between Hamilton City Council and Waikato District Council 2005 (see **Appendix 1**) ('Strategic Agreement') identified areas of land to be transferred to HCC in the future, subject to agreed triggers. Three areas which are yet to be incorporated into Hamilton City are WA, R2 and HT1. The principles established by the Strategic Agreement allowed for land within the Waikato District to be

¹ Statement of Evidence of Alice Morris for Hearing 3 dated 15 October 2019, paragraph 39.

managed to retain the rural / productive nature of the land until such time as it is required for urbanisation. The principles of the Strategic Agreement were then translated into the WDODP as the Urban Expansion Policy Area² ('UEPA') (see Rule 25.5(f)).

27. The constraints under the UEPA provisions have ensured the protection of high-class soils and the protection of the land resource by avoiding ad hoc development and subdivision to ensure future urbanisation is not compromised and allowing for a more practical conversion in due course.
28. The WDPDP retained the principles of the Strategic Agreement as the UEA. The majority of the land within the 3 remaining areas is zoned Rural with the exception of an area of CLZ on the western boundary of area HT1 (approx. 71ha). Accordingly, submission points 535.53 and 535.54 sought the inclusion of mechanisms which ensure that future urban development potential of the land in the UEA was not compromised.
29. The wider strategic picture and background outlined above is useful to understanding HCC's position on the role of the CLZ, and it's interest in retaining the provisions as notified and not provide for further development that will place pressure on existing and planned development. It also sets out the background to the Strategic Agreement and how this relates to the UEA. Against that backdrop, I will now outline my evidence relating directly to Hearing 12 matters.

HCC SUBMISSIONS – HEARING 12

30. The s42A report addresses the identified HCC submission points in the following way:

² Statement of Evidence of Luke O'Dwyer for Hearing 3 dated 15 October 2019 paragraphs 36 – 40.

	HCC submission	S42A response	HCC Response
Sub 535.55 Policy 5.6.8 – Non-residential activities	Retain policy 5.6.8	Accept	Support the intent of the policy, subject to the relief sought in respect of sub 535.75.
Sub 535.75 Rule 23.1.2 D3 – Land Use – Activities – Discretionary Activities	Amend rule (and consequential changes to relevant policies) to ensure existing commercial centres are maintained. All of the CLZ is located near Hamilton or main towns. It is therefore important to maintain the primacy of existing commercial centres in Hamilton and the main towns by restricting commercial activities in this zone or add objectives and policies that better direct commercial activities to zones that are more appropriate than the CLZ.	Discretionary activity status is an appropriate mechanism to manage concern raised by HCC. The objective and policies are specific to character and amenity, and as well there is a suite of policies that manages buildings, scale and intensity of development, as well as non-residential activities. There are activities such as a childcare facility or a café, for example, which may be appropriate in the Country Living Zone, as they support the communities within them. I consider the discretionary activity status combined with policies such as Policies 5.6.8 and 5.6.9 set an appropriate framework for managing both new	HCC seeks to ensure that commercial activities are of a community scale and that larger commercial activities are located in existing business zones. If the discretionary activity status as notified is to be retained, HCC seeks that Policy 5.6.8 is strengthened to better protect existing centres from inappropriate commercial activities establishing in the CLZ by amending Policy 5.6.8 to require that they are not contrary to the Business and Business Town Centres policies in Chapter 4. In particular, Policies 4.5.2, 4.5.3 and 4.5.4.

		and existing commercial activities in the CLZ.	
Sub 535.77 Rule 23.4.1 Prohibited Subdivision	Retain Rule 23.4.1 which prohibits subdivision of CLZ in the UEA.	Recommended that subdivision in the CLZ within the UEA is changed to a Discretionary Activity. In regard to thinking about the future development of the Country Living Zone into residential, the transition of this area to Hamilton City Council will be a challenge, irrespective of the proposed prohibited rule, due to the placement of dwellings that already exist and other site-specific factors (e.g. driveways, effluent disposal fields). In terms of yield, the impact of subdivision in the Urban Expansion Area will not be significant.	Retain the prohibited activity status in the UEA area in Rule 23.4.1 to ensure the objectives and policies for this overlay are achieved and to ensure that no further fragmentation of land occurs that will compromise future urbanisation of the UEA.

Further Submissions	HCC's further submission	S42A response	HCC response
662.3 Blue Wallace Surveyors Ltd	Oppose the amendment to Policy 5.6.3 (i) to replace the word	Retain the word 'avoided' as it is the intended outcome of the policy to ensure	Support the s42A recommendation to retain policy 5.6.3 (i) as notified.

	‘avoided’ with ‘discouraged’	undersized lots are avoided.	
Rule 23.4.2 RD1 (multiple)	Oppose the reduction or deletion of the minimum lot size for CLZ subdivision, or rezoning to Village zone	Accept & retain minimum lot size of 5000m ²	Support the retention of the notified minimum lot size of 5000m ² for the CLZ.
695.121 Sharp Planning Solutions	Oppose reduction of lot sizes (1000m ²) on virtue of being located on the outskirts of towns	Accept & retain minimum lot size of 5000m ²	Support the retention the notified minimum lot size of 5000m ² for the CLZ.
389.3 J & T Quigley Ltd	Oppose the inclusion of ‘childhood activities (daycare) in the definition of rural activity	Childcare is appropriate within CLZ as a non-residential activity, it is not appropriate to add it to the definition of rural activity/industry	Support s42A recommendation to not amend Policy 5.6.8 or the definition of rural activity.
765.3, .4, .5, .13, .19 Tamahere Eventide Trust (Atawhai Assisi Retirement Village) 769.4, .5 & .6 769.4 Tamahere Eventide Trust (Tamahere Retirement Village)	Oppose any relief changing activity status of retirement villages and changes to provisions which would allow incremental expansion in the CLZ	Specific sites located within rural zone – recommended deferral to Rural Zone hearing.	Noted.

Table 1: s42A response to HCC submissions

31. Where the s42A report recommends that the relief sought by HCC above be rejected, I respond as follows:

Submission point 535.75 – Rule 23.1.2 D3 Commercial activity

32. The s42A hearing report addressed HCC’s submission point 535.75 to Rule 23.1.2 D3 – Land Use – Activities – Discretionary Activities – Commercial Activities in paragraphs 250 to 251³.
33. HCC’s submission 535.75 seeks to maintain the primacy of existing commercial centres by restricting commercial activities to locate in business zones. This is a critical issue for HCC as almost all of the CLZ is located near Hamilton or near main towns. Accordingly, the basis for the relief HCC seeks is to ensure that any commercial activities within the CLZ are limited to providing a local service at a scale that provides for the day-to-day needs of a community and that larger commercial activities are directed and located in existing business zoned land.
34. The s42A report author considers that a discretionary activity status is the appropriate mechanism to manage HCC’s concern to protect existing centres. The report records:⁴

The objective and policies are specific to character and amenity, and as well there is a suite of policies that manages buildings, scale and intensity of development, as well as non-residential activities. There are activities such as a childcare facility or a café, for example, which may be appropriate in the Country Living Zone, as they support the communities within them. I consider the discretionary activity status combined with policies such as Policies 5.6.8 and 5.6.9 set an appropriate framework for managing both new and existing commercial activities in the Country Living Zone.

35. I do not agree with the s42A author that Policies 5.6.8 and 5.6.9 are sufficiently strong to constrain inappropriate commercial activity from

³ The s42A report correctly notes that HCC’s submission refers in error to Rule 23.1.3 and that HCC’s intention was to refer to Rule 23.1.2.

⁴ At paragraph 257.

establishing within the CLZ. I consider that only CLZ Policy 5.6.8 is directly relevant. It provides:

5.6.8 Policy – Non-residential activities

(a) Limit the establishment of commercial or industrial activities within the Country Living Zone unless they:

(i) **Have a functional need to locate within the Country Living Zone;**
and

(ii) Provide for the health and well-being of the community.

[Emphasis added].

36. Policy 5.6.8 is very broadly framed. Even 5.6.8(i)(a) provides little constraint when one considers the breadth of commercial activities that might be able to demonstrate a ‘functional need’ to locate within the CLZ but would be more appropriately located in a centre. Further, there are no constraints in terms of scale and no express requirement to demonstrate that the activity will not have adverse effects on existing town or business centres. Indeed, there is no alignment between the CLZ policies that relate to commercial activities and the policy set for Business and Business Town Centres in Chapter 4 which does limit commercial activity outside of existing centres.
37. The weak policy framework, as notified, fails to properly address the adverse effects the less restrictive status may have on existing centres. Accordingly, if the discretionary activity status as notified is to be retained, HCC seeks that Policy 5.6.8 is strengthened to better protect existing centres by amending the policy to directly reference the Business and Business Town Centres Policy set in Chapter 4. In particular, HCC seeks that Policy 5.6.8 be amended to require that commercial activities in the CLZ shall not be contrary to the following Business Zone policies:

4.5.2 Policy – Commercial function and purpose

(a) Commercial activity develops in a way that:

(i) Ensures the business town centre within each town is maintained as the primary focal point for retail, administration, commercial services and civic functions;

(ii) Provides for larger scale commercial activities within the Business Zone;

(iii) Provides for small scale convenience retail and community activities within the Business Zone Tamahere and neighbourhood centres.

4.5.3 Policy – Commercial purpose: Business Town Centre Zone

(a) The role of the business town centres in Raglan, Huntly, Ngaruawahia, Te Kauwhata, Pokeno and Tuakau is strengthened by ensuring that:

(i) They are recognised and maintained as the primary retail, administration, commercial service and civic centre for each town; and

(ii) The scale of commercial activities supports their continued viability as the primary retail, administration and commercial service centre for each town; and

(iii) Enhances their vitality and amenity while providing for a range of commercial and community activities and facilities.

4.5.4 Policy – Commercial purpose: Business Zone

(a) The role of the Business Zone is to support the local economy and the needs of businesses by:

(i) Providing for a wide range of commercial activities; and

(ii) Providing for commercial activities at a scale that supports the commercial viability of towns and villages; and

(iii) Ensuring that commercial activities complement and support the role of business town centres.

Submission point 535.77 – Rule 23.4.1 Prohibited Subdivision

38. HCC's submission point 535.77 seeks to retain the prohibited activity status of subdivision in the CLZ within the UEA. The s42A author for Hearing 12 recommends that the activity status be changed to discretionary. I do not agree with this recommendation, nor do I agree with the arguments advanced by the s42A report writer in favour of discretionary activity status. In particular, I disagree with the s42A author's conclusion that only a small number of additional lots is possible, 15 by her calculation, and

therefore the impact on the UEA would not be significant⁵. The s42A report records further reasons for adopting a less restrictive activity status:

571. In regard to thinking about the future development of the Country Living Zone into residential, the transition of this area to Hamilton City Council will be a challenge, irrespective of the proposed prohibited rule, due to the placement of dwellings that already exist and other site-specific factors (e.g. driveways, effluent disposal fields).

572. I am mindful that subdivision of this area under the Operative District Plan is not distinguished from subdivision of the general Country Living Zone, and is currently classified as a controlled activity, so a transition to a prohibited activity status in the Proposed District Plan is substantially more stringent. While I understand the intent of the Urban Expansion Area and the desire for development undertaken now to not compromise the urban development in the future, I do not consider that a prohibited activity status is warranted. I do not think that there is any subdivision of this area that is likely to have adverse effects so dire or significant that a prohibited activity status is justified. I am also mindful of the very few additional lots that are realistically likely to be created through subdivision. I considered whether a non-complying activity would be the most appropriate, but again neither the potential adverse effects, nor the scale of potential development justifies such a stringent activity status.

39. The s42A author's approach to Rule 23.4.1 is flawed. The above reasoning misses the fundamental point of HCC's submission. As noted above, the provisions of the UEA provide a statutory means to achieve the outcomes of the Strategic Agreement. The basis for the UEA provisions, and HCC's interest in protecting the land resource, is about giving HCC the best chance to urbanise the land in the most effective and efficient manner when it is transferred. The potential low yield of additional lots is immaterial to that objective. Any further fragmentation of the land will further degrade the resource and HCC's ability to retrofit the land for future urbanisation purposes.
40. HCC has experienced sub-optimal development scenarios of the type it seeks to avoid in the UEA. One example is the North Ridge Drive rural-residential subdivision in Rototuna. North Ridge Drive was zoned General Residential in the Hamilton City Operative District Plan but was essentially a semi-urbanised lifestyle block on the fringe of the City. The fragmented

⁵ At paragraph 569-570.

large-lot residential ownership presented significant challenges with regard to the configuration of road access and stormwater management when it came to integrated urbanisation of the land. Over a number of years, persons showed interest in the development opportunity of the area but nothing progressed because of the difficulties of developing the block in an integrated manner.

41. In the end, Council went to great lengths to facilitate and service urban development for North Ridge, including proactively meeting with property owners and developers to ensure alignment with the broader vision of urbanisation. HCC also had to make significant investment in infrastructure including bringing forward LTP funding to purchase and construct a stormwater wetland to service the sub-catchment (which was otherwise being promoted with smaller privately owned stormwater devices). Infrastructure servicing for water, wastewater services along with power, communications, and gas had to abandon existing infrastructure because the requirements for servicing large lots was inadequate for urban density. Increased capacity and repositioning to more appropriate locations was needed to cater for new and more intensive development. The compromised and miss-matched urban environment of North Ridge is the planning outcome HCC seeks to avoid in the UEA.
42. That there is already a degree of fragmentation in the CLZ which will give rise to development challenges for HCC, does not mean that the problem should be exacerbated by relaxing controls and making subdivision more permissive. Rather, the appropriate response should be to avoid any further fragmentation of land in the UEA in order to prevent it from being further compromised.
43. Further, subdivision in the Rural Zone, which is the zoning that applies to the bulk of the UEA, is prohibited (Rule 22.4.1.1 PR1). The same resource management reasons for protecting the resource from subdivision in the

Rural Zone, applies equally to the part of the UEA that is in the CLZ. While the CLZ anticipates some level of subdivision not contemplated by the Rural Zone provisions, the policy reasons for protecting the UEA, as described above, are paramount. A consistent approach is called for, whereby subdivision is prohibited in all parts of the UEA.

44. A submission and further submission by Blue Wallace opposed the prohibited activity status and suggested introducing the requirement for provision of a concept plan addressing future integration with impending urbanised land use. While this would be the preferred approach in developing a concept plan/structure plan for the area in the future, this is not currently achievable as the land is not yet within the HCC boundary and there is no resource for HCC to develop a structure plan for land still within another council's jurisdiction. As outlined in Mr O'Dwyer's evidence for Hearing 3, it is pragmatic to allow collaborative work already underway through the Hamilton to Auckland Corridor (H2A) – in particular, the Metropolitan Spatial Plan – to be completed and inform any subsequent comprehensive planning of those areas once they are transferred to Hamilton.

45. In her analysis of the submissions on 23.4.1, the s42A author considers relevant Objective 5.5.1 which provides:

Protect land within Hamilton's Urban Expansion Area for future urban development.

46. She also considers Policy 5.5.2 which provides:

Manage subdivision, use and development within Hamilton's Urban Expansion Area to ensure that future urban development is not compromised

Noting that Objective 5.5.1 seeks to protect land within the UEA for future development, she considers that Policy 5.5.2 achieves this by ‘managing’ subdivision⁶.

47. Objective 5.5.1 and Policy 5.5.2 were considered in Hearing 3 – Strategic Objectives. In HCC’s submission, it supported Objective 5.5.1 as notified (submission 535.53) and sought its retention, which was supported by the s42A author in Hearing 3.
48. However, HCC ‘s submission 535.54 on Policy 5.5.2 sought that the word ‘manage’ be deleted and replaced with the word ‘avoid’. This submission was supported and accepted by the s42A author in Hearing 3.
49. The reason for the amendment as provided in the evidence of Ms Morris in her evidence to Hearing 3 clearly articulated why this amendment was necessary:⁷

This amendment provides a clear directive that no urban activities or the fragmentation of land is to occur in these identified areas. It also aligns with the prohibited activity status imposed in the rules pertaining to the UEA.

50. Furthermore, the s42A author of this hearing addresses the use of ‘avoid’ in Policy 5.6.3(i) noting that the use of ‘avoid’ *“means that there are no circumstances in which the activity would be acceptable... the use of lesser words is not helpful”* to understand the intent of a policy⁸. HCC considers it critically important that land within the UEA, at this time, is protected for future urbanisation.
51. The best way to achieve this is by avoiding piecemeal subdivision and non-rural activities in this area until an integrated and comprehensive planning

⁶ At paragraph 572-573.

⁷ At paragraph 61.

⁸ At paragraph 530. HCC further submission *FS1379.226* opposed the amendment by Blue Wallace Surveyors Ltd (662.3) to replace the word avoided with discouraged.

analysis is undertaken for this area for when it is brought into Hamilton City in line with the Strategic Agreement. This requires a strong policy framework in support of the prohibited activity status.

52. I consider that protecting land in the UEA from subdivision *now* will enable the efficient use and development of the land in the future in accordance with Section 7(b) of the RMA which states:

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—

...

(b) the efficient use and development of natural and physical resources

...

53. The s42A author refers to the Implementation Method 6.17.1 in the WRPS:

Waipa District Council and Waikato District Council shall include provisions in district plans and growth strategies to give effect to Policy 6.17⁹. This will include strictly limiting rural-residential development in the vicinity of Hamilton City.

⁹ **Policy 6.17 Rural-residential development in Future Proof area**

Management of rural-residential development in the Future Proof area will recognise the particular pressure from, and address the adverse effects of, rural-residential development in parts of the subregion, and particularly in areas within easy commuting distance of Hamilton and:

- a) the potential adverse effects (including cumulative effects) from the high demand for rural-residential development;*
- b) the high potential for conflicts between rural-residential development and existing and planned infrastructure and land use activities;*
- c) the additional demand for servicing and infrastructure created by rural-residential development;*
- d) the potential for cross-territorial boundary effects with respect to rural-residential development; and*
- e) has regard to the principles in section 6A.*

54. This provision refers to rural-residential development in general. In the case of the CLZ in the UEA, this area has been identified to become part of Hamilton and will be fully urbanised in the future and more stringent controls are necessary.
55. Section 4.1.9 c) Planning approach in the WRPS is relevant. It states:
- Adopt a precautionary approach towards any proposed activity whose effects may be significant or irreversible but are as yet uncertain, unknown or little understood.
56. As addressed above, comprehensive planning analysis of land in the UEA needs to be undertaken, including the location of significant sub-regional infrastructure. Understanding the area as a whole and achieving the integrated planning of the infrastructure requires it to happen in a coordinated manner and be informed by the wider strategic planning work currently being undertaken through the H2A plan and the Metropolitan Spatial Plan.
57. Until such planning analysis has been undertaken, taking a precautionary approach through imposing a prohibited activity status on subdivision ensures that the irreversible effects of land fragmentation, which will be detrimental to longer term urban development, are avoided.
58. The s42A author states “that a discretionary activity status will allow for a subdivision consent in this area to be assessed by Objective 5.5.1 and Policy 5.5.2 and for applicants to demonstrate how the subdivision will not compromise the ability for future urban development”¹⁰. The author also considers that one way that this could be achieved is by including a theoretical subdivision layout to urban densities.

¹⁰ At paragraph 574.

59. Firstly, development within the UEA needs to be comprehensively planned and not just addressed site by site as this will not achieve integrated development. Just showing how an individual site could be further developed to urban densities would be done in isolation without a wider strategic context and understanding of the provision of integrated infrastructure for the wider UEA.
60. Secondly, the suggested method of providing theoretical urban subdivision layout is not a clear requirement of the WDPDP. Furthermore, even if this were included as a requirement in the WDPDP it would be just that – theoretical – and still may not be the reality in the future.
61. It is also noted that the s42A author has accepted in part Waikato District Council submission 697.855¹¹. This submission seeks to include new non-complying activities for land uses in the UEA to reflect what was notified for the Rural Zone to protect the area from inappropriate land uses. HCC's submission 535.70¹² sought that non-complying activities in the UEA of the Rural Zone be made prohibited activities. Subdivision is listed along with land use and development in Policy 5.5.2. The recommended change to a discretionary activity for subdivision when land use activities are non-complying shows a disconnect and inconsistency in how the land in the UEA is protected. Land use and subdivision create the same effects of land fragmentation in both the Rural Zone and CLZ that compromises future development.
62. In conclusion, I consider that ensuring the land within the UEA is protected from subdivision requires the prohibited activity status to be retained as notified for the reasons provided above.
63. As a final comment on HCC's position on the concept of 'avoid', HCC maintains its interest in a prohibited activity status for subdivision and

¹¹ At paragraph 272.

¹² To be addressed in a future hearing.

inappropriate development that would compromise the land resource within the UEA (for land zoned both Rural and Country Living) for future urbanisation. To align with that prohibited activity status, the relevant policy framework underpinning the UEA, in particular Policy 5.5.2, must include the word 'avoid'. HCC acknowledges that the precise drafting of Policy 5.5.2 will require refinement to fit the balance of the provisions relating to the UEA. HCC supports any amendment to Policy 5.5.2 that strengthens the connection between the prohibited activity status and a policy framework that includes a requirement to 'avoid' subdivision and inappropriate land use within the UEA.

64. To be clear, HCC does not seek such prohibitive land use and subdivision controls in the Area of Interest, nor the wider District. HCC's only interest in retaining prohibitive controls on subdivision and inappropriate development is in the UEA.

Further submissions

65. HCC made a number of further submissions in relation to lot sizes for general subdivision provisions in the WDPDP (Policy 5.6.3 – Subdivision in the Country Living Zone, Rule 23.4.2 RD1 – General Subdivision).
66. I have read and agree with the s42A author's recommendation that creating undersized lots should be avoided, and the minimum lot size of 5000m² is retained.
67. As set out by the s42A author, allowing smaller lot sizes (3000m²) in the CLZ would significantly increase the capacity/number of lots provided by the CLZ. Reducing lot sizes would, from the perspective of WDC, result in a quasi-village zone which would compromise the character and the rural aspects of the zone.

68. I agree with the above reasons but note from HCC's perspective the reduction of lot sizes will result in increased densities of CLZ within Hamilton's Area of Interest which is likely to result in impacts on infrastructure¹³ within Hamilton, specifically transport, 3 waters and social infrastructure. Furthermore, development could also detract growth from identified locations in the WRPS and Future Proof.
69. Further, HCC opposed submission point 695.121 by Sharp Planning Solutions Ltd which sought a reduction of the minimum lot size to 1000m² on the outskirts of towns or villages. The s42A author recommends this be rejected as the size sought is more akin to the Village Zone. HCC supports the s42A recommendation. It is noted that HCC's further submission also sets out that such relief will result in ad hoc and unplanned growth in numerous locations, which is contrary to the provisions of the WRPS and the principles of Future Proof, which sets out defined growth locations (existing towns) where supporting infrastructure can be provided. This enables the wider area to avoid urban sprawl and the inefficient use of land and infrastructure.
70. HCC also opposed submission point 389.3 by J & T Quigley Ltd which sought an amendment to the objectives and policies to provide for childcare activities in the CLZ or amend the definition of Rural activity. I have read and agree with the s42A author that childcare activities can be considered in the zone appropriately as a non-residential activity and there is no need to provide separate objectives and policies. Also, childcare activities do not fit within the definition of rural activity.

¹³ Paragraphs 21 -35 – Luke O'Dwyer Evidence – Hearing 3 – interactions within the Area of Interest and Impacts on Infrastructure.

CONCLUSION

71. The District Plan policy framework must consider the impacts of its strategic land use planning on adjoining territorial authorities. Section 74 of the RMA requires Waikato District, through this plan review process, to have regard to the extent to which the WDPDP needs to be consistent with the plans of its neighbouring councils.
72. Broadly, HCC's submission on the WDPDP seeks amendments to enable HCC to have input into strategic land use planning within a defined area adjacent to the HCC boundary within the Waikato District.
73. My evidence is focused on preserving the land resource zoned Country Living in the UEA for future development. It has also focused on protecting existing Hamilton City centres (and in effect all centres within the District) from inappropriate commercial development within the CLZ. This approach aligns with the relevant business zone policy framework. In my view, the amendments now sought, as described above, better achieve integrated management of the land resource and, fundamentally, better achieves the purpose of the RMA.

Laura Jane Galt

17 March 2020

**STRATEGIC AGREEMENT ON
FUTURE URBAN BOUNDARIES**

between

HAMILTON CITY COUNCIL AND WAIKATO DISTRICT COUNCIL

March 2005



Strategic Agreement on the Future Urban Boundaries

between

Hamilton City Council and Waikato District Council

March 2005

1.0 Preamble

Hamilton City is New Zealand's seventh largest city in New Zealand (estimated usually resident population of 125,000¹ at June 2003) and was the sixth fastest growing city between 30th June 2002 and 30th June 2003 (2.4% increase). During the period 1996-2001 Hamilton had an average annual growth rate of 1.4% pa. Hamilton City is also New Zealand's second smallest territorial authority with a land area of 9,427 ha.

The Waikato District Council is primarily a rural area with significant growth in lifestyle development. The growth of the district is approximately 1.2% per annum.

These twin pulls place considerable pressure on the future development of the city, and have consequential effects in the adjoining Districts. In many instances Hamilton City is already fully developed to the limit of its territorial boundary, and while there are a number of growth cells within the city, these too are limited in their ultimate capacity.

There is also, as a result of these limitations, considerable pressure on Waikato District, to compromise its rural landbanks for lifestyle housing and industry. Land at the periphery of Hamilton is rapidly being converted to non-farming activities, often in a random and haphazard manner. This has the potential to compromise both the effective and efficient use of the peri-urban area, and will generate unsustainable demand on Hamilton's infrastructure in time.

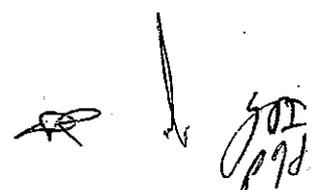
Conscious of these pressures, and mindful of the need to address both the need and aspirations of the current and future citizens of Hamilton and Waikato the councils have agreed to formally recognise the cross boundary issue that lies between them, and to put in place an agreement to guide the decision making processes, in respect of future land use and urban growth.

2.0 Purpose

The purpose of this document is to reach an agreement between Hamilton City Council and Waikato District Council as to how and where and when the future expansion of Hamilton City will occur. The Agreement addresses:

- 3.0 The Goal : being the jointly agreed outcome for the Agreement.
- 4.0 The Issues : being the drivers for the Agreement.
- 5.0 The Principles : being the accepted basis of future expansion of the City.

¹ Statistics New Zealand Subnational Population Estimates.



- 6.0 The Direction : being the areas identified and agreed.
- 7.0 The Process : being the circumstances that might trigger the adjustment of the respective boundaries of the City and District.
- 8.0 Review : being the basis of any review of the Agreement.

3.0 The Goal

The Goal of this Agreement is

"To ensure that the future expansion of Hamilton City takes place rationally in a well ordered and co-ordinated manner into the most suitably located surrounding areas in the best interests of the present and future inhabitants of the City."

In establishing this goal the two councils jointly desire to address the sustainable development future of both communities, as recognised within the Local Government Act 2002, and existing cross boundary issues within the context of the Resource Management Act 1991.

4.0 The Issues

The following issues have been specifically identified as necessitating a common and joint approach to future boundary readjustments between Hamilton City and Waikato District.

Land Use Policies: In response to growing demand the Hamilton City Council has endeavoured to reduce its land consumption by providing for intensification of its existing urban infrastructure. In particular the Proposed Hamilton City District Plan (References Version 2001) provides for smaller subdivisional sizes for residential sections, enlarged high density areas in the city, and increased opportunity for apartment dwelling. While there has been some success with this, the quantum of growth has continued to absorb greenfield land at increasing rates, diminishing both supply and the ultimately constraining the city's capacity.

Similarly the District has a wealth of high quality, versatile soils in and around the City Boundary whose use is being compromised by peri-urban development. This can generate short term reverse sensitivity issues and in the longer term additional pressure points on city networks and services, while creating a form of development which is potentially unsustainable in the long term.

Infrastructural Frameworks: Critical to the agreement is the opportunity it provides Hamilton City to plan towards accommodating growth in specified localities, and to known standards, and densities. Hamilton City Council has established a programme to consider the strategic provision of essential infrastructure including water, roading, public transport, recreation, wastewater and community facilities. Agreement on the broad direction and timing of future urban growth will enable this long term infrastructure planning to continue.

Market Certainty: One significant issue faced by both councils is the uncertainty faced in the market, regarding the future development of Hamilton. This is evidenced in the random subdivision of land on the periphery of the city for lifestyle blocks, and the

increasingly speculative acquisition of land for future residential development. Such initiatives place significant pressure on the city in the future to service these nodes and incorporate these within the City; a process that is expensive, inefficient, and generally does not result in good urban outcomes. More significantly, and more immediately it creates an unwelcome lifestyle market on some of the Waikato's best land; inflating land values, increasing resource management issues, and compromising the efficient and effective use of land.

Economic Wellbeing: Hamilton's economy is inextricably linked to that of the Waikato Region, and vice versa. As the region's capital the city provides a hub of services and employment. The city and district's economic well being relies heavily on population, and critically on providing that population with employment. Hamilton has limited long term industrial land capacity and needs to provide opportunities for industrial growth in areas where there is good access, available services, and where the effects of activity can be controlled. In addition to providing for some additional long term capacity within the city the two Councils also recognise that there is potential capacity in the Waikato District, based on land at Horotiu and along the State Highway/NIMT Railway Corridor, between Horotiu and Te Rapa.

5.0 The Principles

This Agreement returns Hamilton City and Waikato District to a co-operative approach to the exchange of land, to facilitate the future development of both the City, and peri-urban resources of the District. A similar philosophy existed during the 1970's and 1980's and worked well. The Local Government reform of 1989 while providing a medium term land bank for the city also resulted in both districts becoming increasingly insular in the treatment of their resources. As that land bank has been eroded it has provided the opportunity as well as heightened the necessity of agreeing a combined approach.

In adopting this Agreement the two Councils acknowledge the following:

"Hamilton City is virtually surrounded by highly productive farmland and in general those few areas of low productivity are, because of certain restraints, unsuitable for urban use."

"Urban expansion on to good farmland must therefore be accepted, which makes it essential that the most productive farmland be avoided for as long as possible."

".... avoid where reasonably possible, encroachment on the most productive farmland, and where not possible, to retain such farmland in fully productive use as long as possible."

These principles provide the basis for accepting that growth of the city must be enabled, but that the opportunity for growth is not unfettered and moreover that the direction and timing of growth involves both the City and the District acting co-operatively.

6.0 The Direction

Significant studies over the past 30 years have consistently identified the growth opportunities and directions for Hamilton City. This is largely limited to some expansion to the east of the present city boundary, and to the north. Earlier studies have consistently identified a greater urban area embracing Ngaruawahia. Some limited growth to the northwest has also been identified.

One key element in determining growth has been the identification and establishment of logical boundaries to expand toward. Such boundaries are rarely in themselves absolute, but they provide a sound basis for future planning. The proposed Hamilton Expressway, which is in the process of being designated by Transit NZ provides one such logical boundary. It is estimated that within the expressway between Mangaonua Gully and the Horotiu/Te Rapa Bypass (connecting the expressway to the Te Rapa Bypass - see Appendix 1.0) and encompassing approximately 1800 ha, provides for some 30 years of potential residential, industrial and commercial development (known as the Hamilton City Long Term Growth Area).

On the basis of this area the two Councils agree that:

A. The area of land, west and south of the Proposed Hamilton Expressway, between the Horotiu/Te Rapa Bypass and Morrinsville Road (SH 26) (as shown on Appendix 1.0) shall be recognised as providing for the long term growth needs of Hamilton City.

B. That the area shall be recognised as five growth cells:

R1: being the area between Morrinsville Road (SH 26) and Greenhill Road, and largely encompassing the Tainui landholdings at Ruakura (being approximately 730 ha).

The area of R1 may be expanded to incorporate a further area of land between SH26 and SH1, and the alignment of the Waikato Expressway following confirmation of the outcome of consultation to be undertaken by Waikato District Council with affected residents.

Note: The area identified within R1 for the Innovation Park (growth cells A1, A2, B1, B2 as shown in Appendix 6.0) is excluded from this Agreement. The Innovation Park can develop in accordance with its development plan and in accordance with Waikato District Plan provisions.

R2: being the area between Greenhill Road and Borman Road (being approximately 200 ha).

HT1: being an area of land roughly triangular in shape between the Waikato River, the existing City boundary along Kay Road/Horsham Downs Road, the expressway and the Horotiu/Te Rapa Bypass (being approximately 780 ha in area).

HT2: being the area on the western side of the Waikato River, between the Horotiu/Te Rapa Bypass, and the present city boundary along Ruffell Road (being approximately 290 ha).

WA: being an area on the western edge of Hamilton City bounded by Whatawhata Road and Wallace Road (being approximately 25 ha).

All as shown on Appendix 2.0, 3.0 and 4.0 respectively.

C. That the agreed purpose of the growth cells will be to provide for the full range of urban uses required to ensure the sustainable development of Hamilton City and its communities. It is noted that the principle intention of the Growth Cell HT2 is to provide for the continued expansion of the Te Rapa Industrial area, and its eventual integration with the proposed Horotiu Industrial cell within Waikato District. It is however acknowledged that not all land in area HT2 may be

suitable for industrial usage. This includes the extension of buffers to protect the Waikato River (and its tributaries) where it adjoins this area.

7.0 The Process

The transfer of any or all land will occur using the following process notwithstanding that any person may seek to pursue the legal opportunities open to them to initiate a boundary adjustment pursuant to the provision of the Local Government Act 2002.

- E. That following the designation of the Waikato Expressway (adjacent to Hamilton City) and the Te Rapa/Horotiu Bypass being confirmed any one or more of the identified growth cells shall be capable of being transferred to Hamilton City. The Councils agree that either designation or construction of the bypasses will be the trigger for land transfer.

The specific triggers for a transfer shall be:

Area HT2: Area HT2 is divided into two sub areas; HT2a being the land west of Te Rapa Road/State Highway 1 and south of the Fonterra Dairy Factory site, and Area HT2b being the balance area (see Appendix 7.0).

Area HT2a shall be transferred to Hamilton City administration following confirmation of the designation of the Ngaruawahia and Te Rapa/Horotiu Bypasses.

Area HT2b shall be transferred to Hamilton City at the same time as Area R1.

Area R1: This area shall be transferred to Hamilton City Council administration, at the time of construction of the adjacent section of the expressway, to provide for the growth of the city between its present urban boundary and the expressway.

Area R2: This area shall be transferred to Hamilton City Council administration, at the time of construction of the adjacent section of the expressway, or in 2039, whichever is later, to provide for the growth of the city between its present urban boundary and the expressway.

Area HT1: This area shall be transferred to Hamilton City Council administration in 2045 provided that the expressway adjacent to the area has been constructed.

Area WA: This area shall be capable of being transferred once Hamilton City Council is able to confirm its capacity to service this area for full urban purposes noting that the provision of service to this locality is dependant on the development of a new wastewater interceptor to service the Peacocke's area of the city.

- F. The proposed transfer dates are based on an estimated land uptake in Hamilton City. The rate shall be regularly reviewed, and the timing of transfer may be amended by mutual agreement between both parties.

- G. That the intention of the two Councils be made public and be used, where possible, to guide policy formulation and decision-making. The agreement shall guide the Waikato District Council in the administration of its Operative District Plan and the review of that plan currently underway. In particular the District

Plan should seek to recognise the long term urban intentions for the agreed growth cells, avoid any further increase in the range of non-rural activities in growth cell areas, or the further fragmentation of land below that currently provided for by Proposed Plan Change No 7 to the Operative Waikato District Plan.

In stating these intentions the Agreement fully acknowledges that the Waikato District Council is bound by its duty to administer within its statutory capacity the Resource Management act 1991, and pursue all relevant processes to give effect to that legislation.

8.0 Review

This Agreement shall be binding on the Hamilton City and Waikato District Councils, and may only be varied or revoked by the mutual agreement of both parties.

M G Redman
MAYOR OF HAMILTON CITY COUNCIL

P J Harris
MAYOR OF WAIKATO DISTRICT COUNCIL

A J Marrayatt
CHIEF EXECUTIVE
HAMILTON CITY COUNCIL

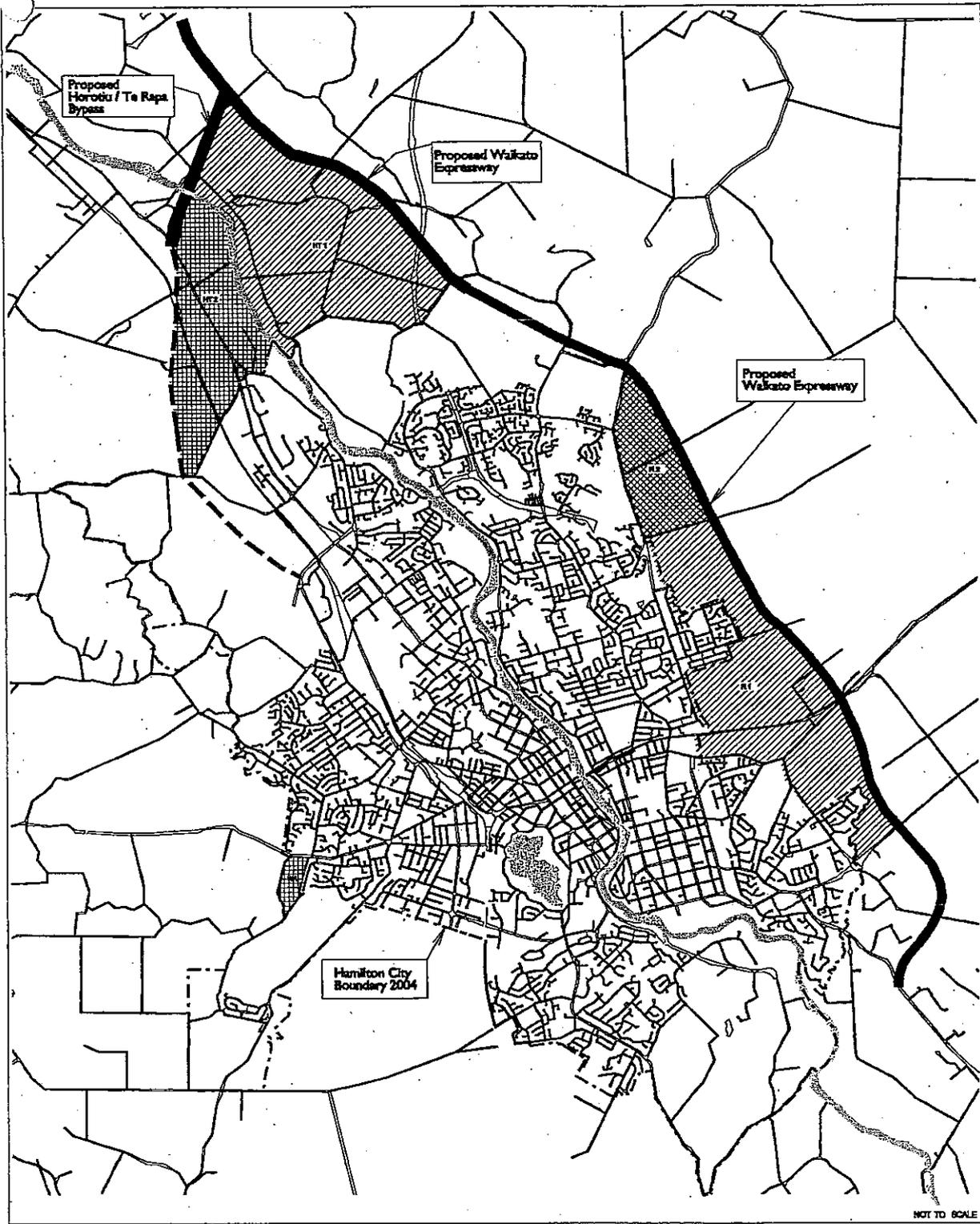
G J Ion
CHIEF EXECUTIVE
WAIKATO DISTRICT COUNCIL



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23 MAR 2005

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Dated



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Hamilton City Long Term Growth Area

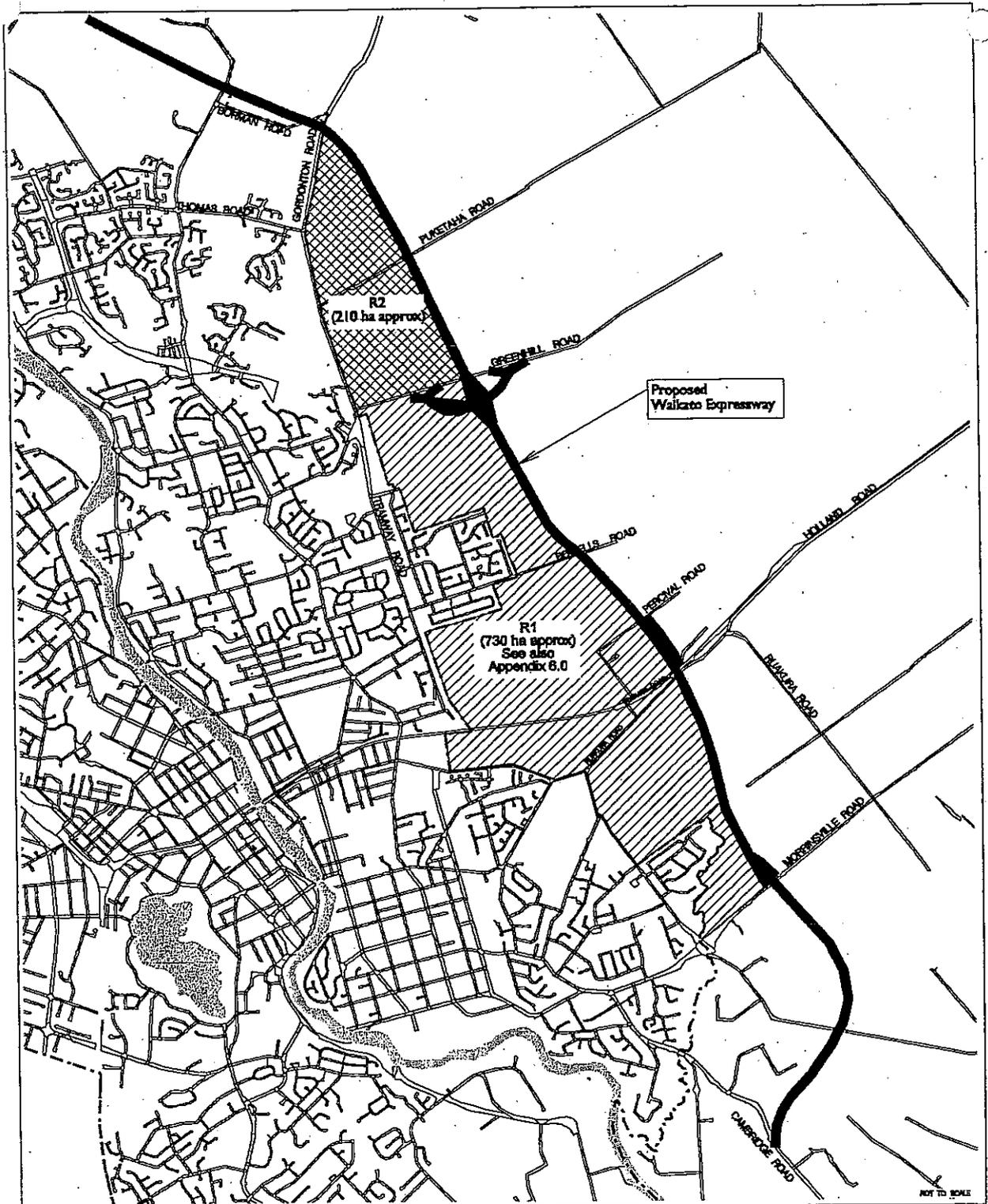
Appendix 1.0



DESIGN SERVICES

Hamilton City Council

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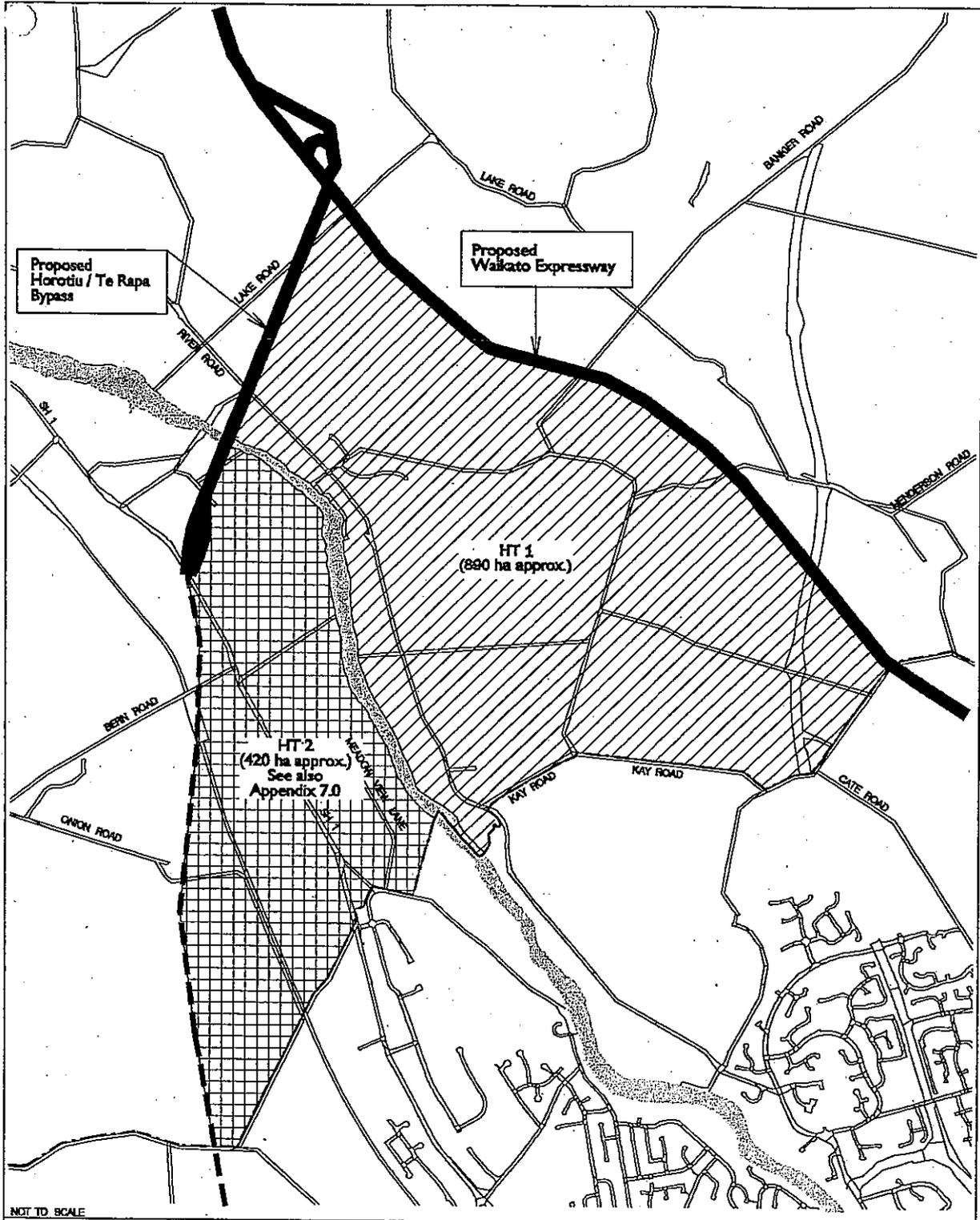
Hamilton City Long Term Growth Area

Appendix 2.0



Hamilton City Council

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Hamilton City Long Term Growth Area

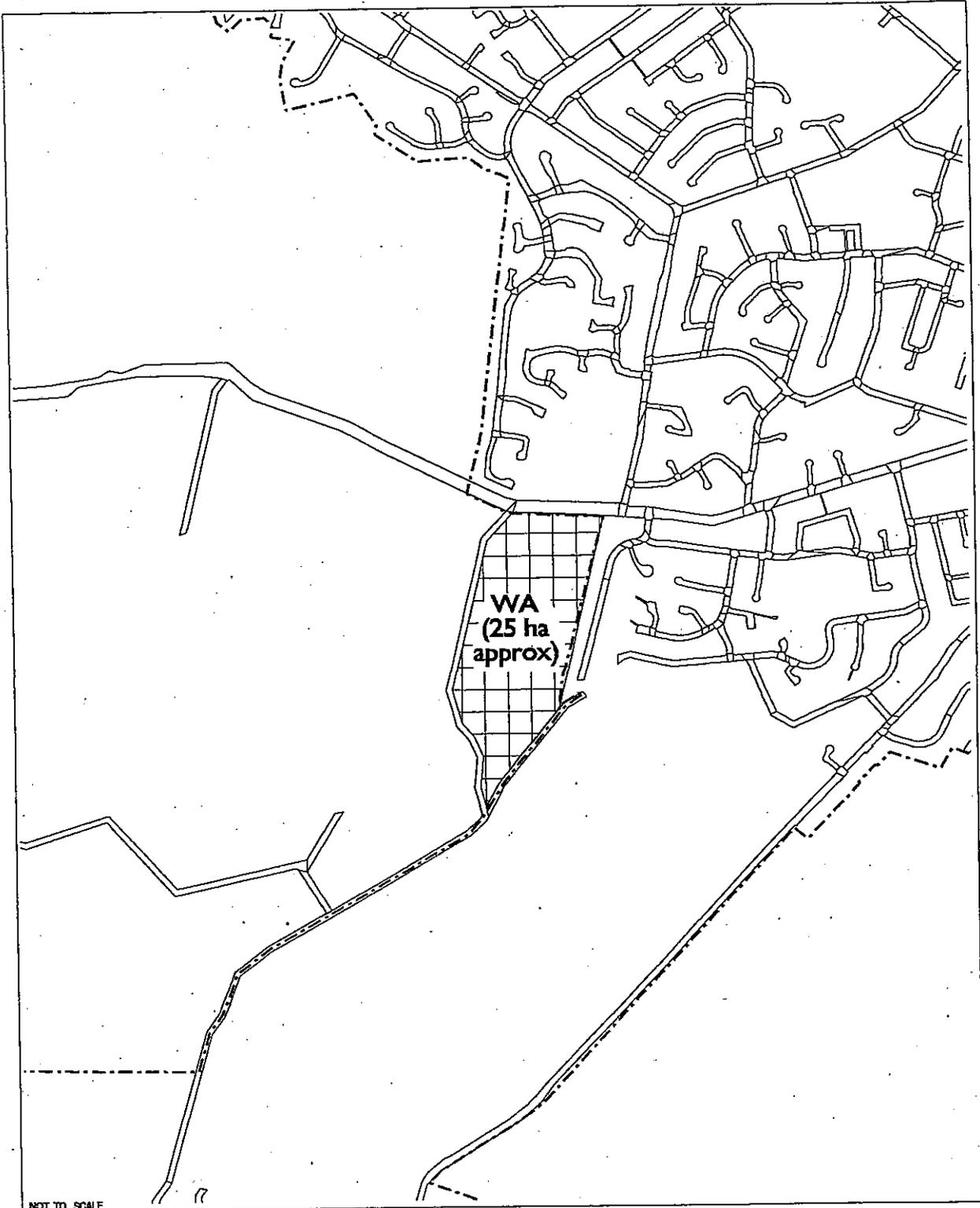
Appendix 3.0



DESIGN SERVICES

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Hamilton City Long Term Growth Area

Appendix 4.0



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Appendix 5.0

Hamilton City Projected Residential Uptake December 2003

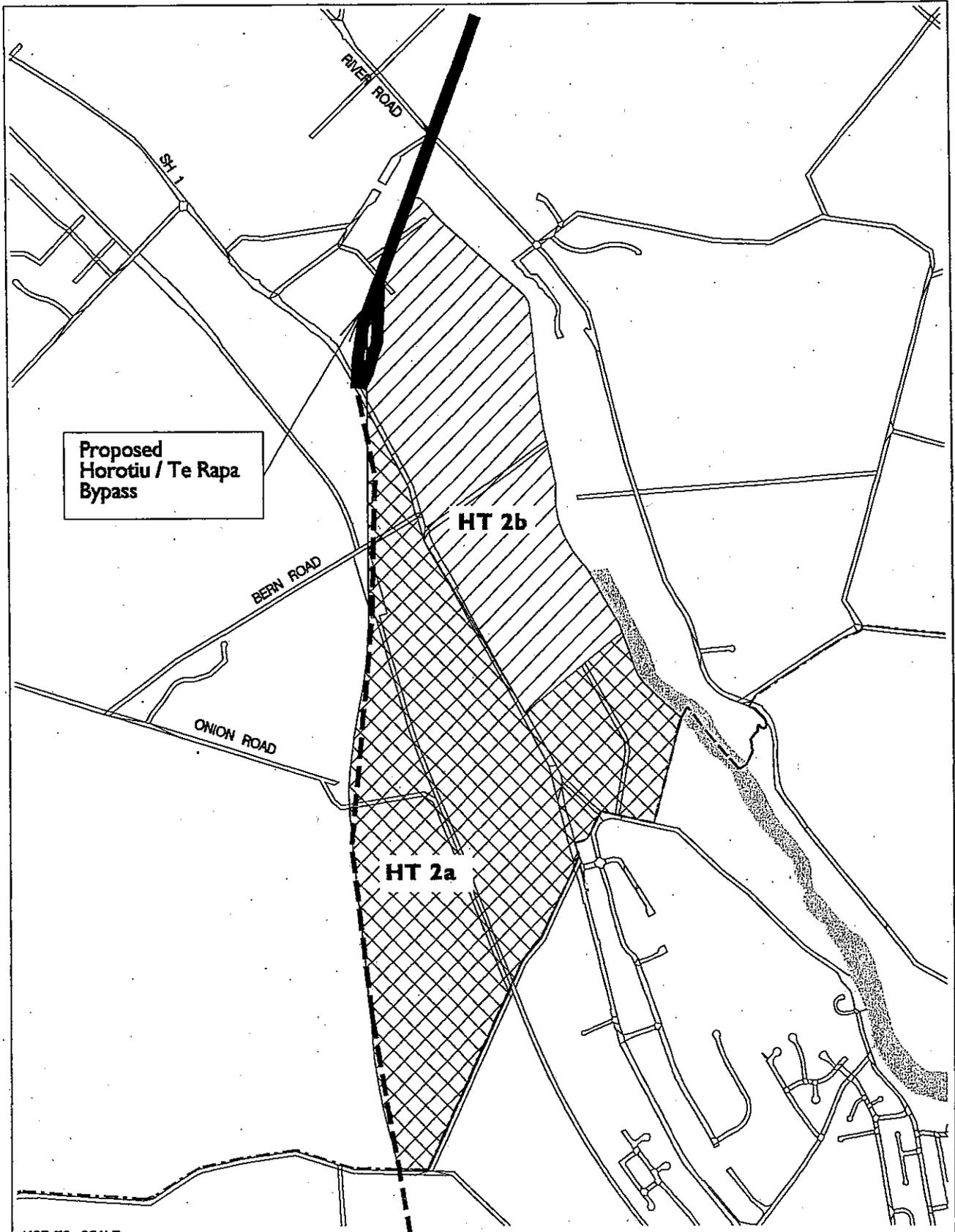
1. Residential Uptake for Hamilton City is predicted on a number of variables.
 - i) Annual average housing starts at 800 per annum.
 - ii) Infill demand of around 20% of total new stock falling to 15% in 2040 and 10% in 2060.
 - iii) Average occupancy of 2.7 persons per dwelling
 - iv) Average dwelling density of 12 dwellings per hectare.
 - v) Average annual population growth of 1.9%.
 - vi) No allowance is made for additional development at Temple View.
2. The rate of uptake and demand will be altered by any change to one or more of the above variables.
3. The land base for the uptake projection is conservative. A wider range of alternative land uses, particularly industrial will accelerate overall demand by reducing overall supply. Similarly lifestyle development in the Future Growth areas will further reduce capacity once land becomes urban.
4. The scenario outlined below is integrated. The delay or acceleration of any one growth area or cell will impact on the rate of uptake in other cells. The model also endeavours to provide a range of market choice, to avoid single cell dependency which will not allow the market to act efficiently.
5. The December 2003 projections envisage:
 - A. Continued development of Rototuna until 2027. Short-term demand will reach 70% of total new housing demand, which should reduce as other growth areas are made available.
 - B. Commencement of development in the Rotokauri Growth Cell in 2006. This cell is predicted to service different market to Rototuna and will remain a steady but modest provider of land for the city. There is a possibility, based on current interest, that the area could be more rapidly depleted if strong industrial demand continues.
 - C. Peacockes is likely to be required to service residential demand in 2016 and will complement, and compete with Rototuna for the mid range market demand. This cell is likely to sustain development until 2050, under the current scenario.
 - D. The R1 cell is likely to come into the market in around 2025 based on strong demand generated by the expressway, ease of servicing, and growth in the Ruakura/University/Innovation Park node. This cell is likely to be exhausted around 2063.
 - E. Cell R2, is very small, and likely to develop quickly on the back of R1, and as a result of both Peacocke and Rotokauri becoming exhausted around the same time. This cell will commence in approximately 2044 and be completed in 2056.

HT1 is the longest term residential growth cell for the city and not predicted to commence till around 2051. Its completion is well beyond the planning horizon.

The data nominated in the agreement provides for land to be transferred to Hamilton City approximately five years before the anticipated demand data for new development.

It should be noted that the above should not be taken as an absolute land use prediction. The variables employed are significant and subject to pressures over which local government has very limited influence. Similarly the horizon is extremely long. Accordingly these dates and rates of projected uptake rates should be used very cautiously.

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Area HT 2 (Detailed) Appendix 7.0

DESIGN SERVICES

Hamilton City Council

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