IN THE MATTER OF the Resource Management Act 1991

AND

IN THE MATTER OF Plan Change 6 – Regulatory Efficiency and Effectiveness to the 2017 Hamilton City Operative District Plan

RIGHT OF REPLY – HAMILTON CITY COUNCIL, 13 May 2019

CLARE DOUGLAS, CONSULTANT PLANNER FOR HAMILTON CITY COUNCIL
RIGHT OF REPLY – HAMILTON CITY COUNCIL, PLAN CHANGE 6 – REGULATORY EFFICIENCY AND EFFECTIVENESS TO THE 2017 HAMILTON CITY OPERATIVE DISTRICT PLAN

1.0 MATTERS FOR CONSIDERATION

1.1 I have considered all matters presented at the hearing of submissions and further submissions to Plan Change 6 – Regulatory Efficiency and Effectiveness and my response to the evidence is as follows.

2.0 SUBMISSIONS AND RECOMMENDATIONS

Chedworth Properties Limited- Andrew Cumberpatch and Judith Makinson

2.1 Mr Cumberpatch and Ms Makinson requested more flexibility for design of roads so that the Legal road width, Carriageway width and Service corridor width for Local and Collector Roads is subject to a "Specific Design".

2.2 As agreed by Mr Cumberpatch and Ms Makinson the existing objectives, policies and assessment criteria of the Plan give sufficient guidance that specific design can be considered in the appropriate circumstances through the Resource Consent process.

2.3 All new roads require a Resource Consent as a Restricted Discretionary Activity where specific design can be considered. Flexibility should not be incorporated into a rule due to the difficulties with implementation.

2.4 An example was given in how narrower road width worked for the Greenhill Development. This site is located in the Medium Density Zone. All roads are subject to a Land Development Plan Consent in the Medium Density Zone and all dwellings require consent as a Discretionary Activity. Specific road design can be considered through the Resource Consent Process.

2.5 In addition, I note that the Medium Density Zone is currently subject to a separate plan change 'Plan Change 8-Development Plans'. Any change to roading in the

Medium Density Zone should be considered as part of that Plan Change rather than Plan Change 6.

2.6 Implementation of higher density areas which may be required as part of the National Planning Standards on Urban Development (NPS-UD) will need a separate plan change. Road design for these areas can be considered at the time of any plan change occurring as a result of the NPS-UD.

2.7 For those reasons I stand by my recommendation to reject the request for specific design. This is supported by the transportation evidence provided by Alastair Black.

Peter Bos

2.8 Following the evidence from Mr Bos in relation to his concern that the height in relation to boundary exemption will make the rule difficult to understand, I note that the intention of the change is to remove the requirement for unnecessary Resource Consent where the effects are considered to be less than minor. Whilst we have not provided any shading diagrams, the exemption for gable ends is small in size and scale and based on the same exemption in single dwelling zone in the Auckland Unitary Plan.

David Yzendoorn- Thomas Gibbons

2.9 Following the evidence from Mr Gibbons, I would like to explain the consideration given to re-zoning of 24 St Petersburg Drive as part of Plan Change 6.

2.10 Mr Yzendoorn raised the potential error of zoning on his site as part of consultation on the plan change and asked to re-zone the site from Natural Open Space to Residential. I looked into the option of including it in Plan Change 6 but it was not clear that the zoning had been done in error.

2.11 The site fully adjoins the Natural Open Space Zone, contains a gully and is almost fully planted with trees. In determining an appropriate location for the Residential Zone further assessment of the effects from the loss of Natural Open Space Zone including ecological effects and effects on fauna and flora was needed. This sat outside of the scope of Plan Change 6 as it was not a simple correction.

2.12 My advice at the time was to make a case through a resource consent where consideration will be able to be given to the appropriate dwelling design and mitigation measures.

2.13 Plan Change 6 does not propose changes to the underlying zoning of this land. The submission is not 'on' the plan change because it is attempting to address a matter which is simply not within the range of what the plan change is proposing to alter about the status quo. It fails the legal tests in *Clearwater Resort Ltd v Christchurch City Council* AP34/02 and *Palmerston North City Council v motor Machinists Ltd* [2013] NZHC 1290, and is out of scope.

Kainga Ora Homes and Communities- Craig Sharman and Matt Lindenburg

2.14 Concern has been raised with the complexity of the interface standards.

2.15 The proposed provisions align with the intention of the interface rules in terms of ensuring that accessory buildings do not dominate the frontage, provide the ability for passive surveillance of the street and safe access. This is not clear from the existing rules which enable garages forward of the dwelling in some instances and not others even though the effects would be the same. For example, the existing rule allows attached garages to be located forward of the dwelling by no more than 8m. Further than 8m would require a consent even though the effects would be the same. The proposed provisions provide clarity and I stand by my recommendation in Appendix A of the Section 42a Hearing Report.

2.16 A Restricted Discretionary Activity status for fee simple subdivision of apartments has been sought, and some recommended provisions have been provided.

2.17 The Hamilton City Plan provisions do not separate Fee Simple subdivision or Unit Title subdivision in the activity status table. However, the existing interpretation of the rules mean that little Fee Simple subdivision of apartments occurs.

2.18 The notified provisions provide clarity in how to assess Fee Simple subdivision of apartments. I still consider a Discretionary Activity status to be appropriate as per my recommendation in Appendix A of my Section 42a Hearing Report given the unintended social, economic and environmental effects which may occur with the unwinding of body corporate structures and property management agreements in terms of on-going management of shared space.

2.17 The evidence from Mr Sharman and Mr Lindenburg has stated that the existing access rule relating to sufficient clearance on access is appropriate.

2.18 It is not clear in the current rule what is a sufficient clearance or that this relates to emergency vehicles. Dwellings are being consented with access which would not achieve the guidelines from Fire Emergency NZ. The proposed rule provides clarity on what is an appropriate clearance. I stand by my recommendation in Appendix A of the Section 42a report.

2.19 Mr Sharman and Mr Lindenburg seek to introduce a new provision into Rule 25.14.4.1a which allows vehicle crossings on collector and arterial roads to be located as far as possible from other vehicle crossings where the minimum separation cannot be achieved.

2.20 I stand by my recommendation in the Section 42a Report to reject this change following additional evidence provided by Alastair Black on the safety risks involved with closely spaced vehicle crossings without specific site assessment.

Property Council- Tabled Evidence by Brian Squair; and
Kainga Ora -Craig Sharman and Matt Lindenburg

2.21 Mr Squair opposes the notified changes to Rule 23.7.3f and g which requires a 16m wide public road width for 7 or more residential units on fee simple lots as it is not clear how the issues cannot be addressed under a fee simple tenure like they can under a unit title tenure, due to the additional upkeep and maintenance costs for

Council with more publicly vested road assets; and it is at odds with a sustainable compact urban form in Hamilton.

2.22 Evidence provided by Mr Sharman and Mr Lindenburg states that the threshold to vest in Council is too low, that there is no compelling resource management basis for this and that a material difference cannot be identified between the fee simple and unit title tenure.

2.23 The intention of minimising the number of fee simple lots off a private way is due to the lower levels of amenity that are achieved on lots that do not have a road access, to prevent servicing issues; and imposition of maintenance burden to residents.

2.24 In addition long private ways present challenges in regards to kerbside refuse collection, additional pedestrian vs vehicle conflict, provision of lighting for safe access; and fencing along the access which can create unsafe spaces.

2.25 Apartments require consent as a Restricted Discretionary Activity with discretion restricted to Design and Layout; and Character and Amenity. The suitability of design and layout of access, rubbish storage and collection, lighting and crime prevention through urban design issues are able to be assessed through a Resource Consent application for apartments. This is not the case for dwellings on fee simple lots.

2.26 Body corporates required through Unit Title arrangements ensure appropriate management and operation of access. This becomes more difficult with the greater number of fee simple lots off a private way as there is no managing body to resolve conflicts.

2.27 Maintenance burdens and costs for council were identified. The maximum number of dwellings off a private way is not changing. There has always been the expectation that an access would be vested as road after this point. The new provisions just make this clear. Therefore, costs of road ownership by Council would be similar to the current situation.

2.28 A compact urban form is achieved through the Medium Density and Intensification Zones. Fee simple subdivision is unlikely to occur in the Residential Intensification Zone as single dwellings are discouraged.

2.29 For those reasons I stand by my recommendation in Appendix A of the Section 42a Hearing Report on this matter.

Clare Douglas
13/5/2020