

APPENDIX 8.2: MATTERS FOR CONSIDERATION

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Criteria	Matters for Consideration	Actions Required
Reason for the change	<ul style="list-style-type: none"> • Gives effect to a higher-level RMA documents • Assessed as having high significance under the LGA • Robust district plan administration • Avoidance of vires • Ensure rules are <i>vires</i> and certain 	<p><u>Boundary adjustment:</u> As the land was brought into the City via LGA boundary adjustment in 2014 Council is required to undertake a plan change required under s.81(3) of RMA.</p> <p>A change in the zoning will ensure effective plan administration as the present land zoning does not align with Hamilton’s planning framework.</p> <p><u>Plan Administration:</u> Caselaw over the recent years (Queenstown and Auckland) regarding the application of comprehensive development plans as a district planning tool have been determined by the Courts as having fails with regard to what can and cannot occur through as a result of obtaining a resource consent. Due to this case law the framework for Temple View comprehensive development plans (‘CDPs’) has been reviewed and determined that amendments are required to ensure up-to-date plan administration and remove the potential to offend the Act.</p> <p>Since 2009, resource consented work within the former Church College and Temple sites has occurred. To ensure planning provisions correctly reference these changes the areas of Significant Natural Areas (‘SNAs’) has been reviewed and amended to reflect the updated situation.</p> <p>Add the notation “Community Focal Point” onto Figure 4-5 to ensure the correct</p>

¹ This format is taken from the MfE Guidance on s.32

<p>Degree of shift from the current approach</p>	<ul style="list-style-type: none"> • Address existing or new RMA issue • Proposing a new management refine/minor or major change in rule framework • Extent and scale of regulatory impact • Degree of ‘packaging’ with other plan changes or other interventions • Discrete provisions or broader suite of existing provisions • Changing existing plan objectives and to what degree 	<p>linkage between this figure and Rule 5.5.11.</p> <p><u>Boundary adjustment:</u> The 14 hectares is presently zoned Rural under the Waipa District Plan as at 10 July 2014. The plan change is required pursuant to Section 81, RMA (Refer to Appendix 8.1 of this report). Accordingly, there is now an expectation that the land will be used for urban purposes. Therefore, long-term it is anticipated there will be a visual change from the existing ‘rural’ view into an urban, built form. The proposed zone change will also alter the development potential afforded the 14ha under an urban zoning verse the existing rural zoning.</p> <p>The planning framework proposed for the 14 ha would align directly to that of the existing areas that make up the Temple View Zone. Presently, if urban development was intended on the 14ha area it would need to be considered as a Non-Complying Activity in the Waipa “Bolt-On” section of the District Plan. While under the planning framework for the Temple View zone such development would be at minimum a Restricted Discretionary Activity.</p> <p>This proposed plan change is for the replication of the existing zoning provisions provided for under the Temple View Zone in the Operative District Plan over the 14ha area, subject to the further amendments described below. There are no changes proposed to the existing objectives and policies for the zone.</p> <p><u>Plan Administration</u> Principles arising from the Auckland and Queenstown cases identified the possible <i>vires</i> of rules providing for CDPs, or similar in district plans. As a result, the CDP rules for the Temple View zone were reviewed. The existing CDP rules do not establish a process by which a CDP will determine the activity status of subsequent activities. However, the activity status of a range of will be determined by whether a CDP has been granted or not. This creates uncertainty as to whether the rules are indeed vires. Furthermore, the interpretation and implementation of the rules becomes unclear</p>
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		<p>whether or not a CDP has been issued. Accordingly, the proposed modifications to the provisions set out to remove the provisions requiring the establishment of a CDP. The areas presently identified as CDP '1', '2' and '3' will be renamed as 'Precinct 1', '2', '3'. The amendments ensure that the rules are <i>vires</i> and will provide for integrated development within the Temple View zone which is sympathetic to the special characteristics of the area. The potential for development to be comprehensively planned and implemented is provided for in the proposed amended rules. This means that the Temple View Zone will continue to be developed in an integrated manner.</p> <p>Update the planning provisions to correctly reference the areas of Significant Natural Areas ('SNAs').</p> <p>Add the notation "Community Focal Point" onto Figure 4-5 to ensure the correct linkage between this figure and Rule 5.5.11.</p>
<p>Who and how many will be affected</p>	<ul style="list-style-type: none"> • Degree of public interest and engagement in issue • Degree to which proposal will address identified community outcomes • How many will be affected? Single landowner/multiple landowners/occupiers/ • neighbourhoods/businesses/cities/future generations • Degree of impact on private property • No changes to the fundament of cohesive and connectivity requirement for the Temple View Zone 	<p><u>Boundary adjustment:</u> The 14ha area is under one ownership, being owned by the LDS Trust Board. This area as part of the overall former Church College site and so the development opportunities for the entire area is of interest to the Temple View Community.</p> <p><u>Plan Administration</u> The term 'comprehensive development plans' has been identified as having a key impact on the perception of the output from the planning process. Therefore, it is proposed to replace this term throughout the Temple View zoning chapter. Replacing 'Comprehensive Development Plans' term with 'precincts' and to amend the provisions to outline more clearly the way activities within these areas are to be established will address concerns regarding the <i>vires</i> of rules. There are no fundamental changes proposed (or required) to the anticipated outcomes by these changes. It is considered the proposed changes do not impact on the community.</p> <p>Add the notation "Community Focal Point" onto Figure 4-5 to ensure the correct</p>

		<p>linkage between this figure and Rule 5.5.11.</p> <p>Council staff have engaged through mail and held two 'drop-in' sessions in Temple View so all land owners and residential of the Temple View settlement and surrounding properties in the Waipa and Waikato Districts. Feedback obtained is outlined in Appendix 8.4: Consultation.</p>
Degree of impact on, or interest from iwi/Maori	<ul style="list-style-type: none"> • Level of interest from iwi/Maori engagement with iwi on the issue • Likely degree of impact on iwi/hapu • Impact on sites, areas or resources of significance to iwi/Maori • Degree of consistency with iwi management plans 	<p><u>Boundary Adjustment and Plan Administration</u></p> <p>Council have undertaken to consult with Waikato Tainui, THaWK and directly with Ngaati Mahunga (the Hapu, whose rohe Temple View is located within).</p> <p>A review of the proposed plan change against the Waikato-Tainui Environmental Plan has been undertaken and concluded there was no major concerns that arise from that review. The plan change covers a discrete are of land.</p> <p>This review has been sent to Waikato Tainui for comment identify no issues raised and support given in principal for the plan change subject to the outcome of consultation with Thawk and directly with the hapu of the area, Ngaati Mahunga.</p> <p>Further dialogue has been had with Ngaati Mahunga/THaWK, Refer to Appendix 6: Waikato Tainui correspondence.</p>
When will affects occur?	<ul style="list-style-type: none"> • Temporarily (weeks or months) • For the next 1-5 years • On-going into the future 	<p>The proposed changes will become effective in accordance with the RMA first schedule process and those provisions finalised through the first schedule process being adopted and implemented.</p>
Geographic scale of impacts	<ul style="list-style-type: none"> • Very localised or wide ranging (i.e. single site/whole zones/one or more regions/single or multiple natural resources) 	<p>The proposed changes are localised to the Temple View area.</p>
Type of effect	<ul style="list-style-type: none"> • Acute/chronic/temporary/cumulative/positive/negative/irreversible • Likelihood and consequence (e.g. low 	<p>The overall effect the plan change will have on the surrounding environment and the administration of the plan will be positive.</p>

	<p>probability, high consequence)</p> <ul style="list-style-type: none"> • Part(s) of environment affected (ecosystems, infrastructure, amenity) • Degree of impact on social, cultural or economic well-being • Degree of impact (positive/negative) on Part 2 matters 	<p>The proposed changes will align an existing discrete area of land's zoning with the rest of the Temple View area to ensure a cohesive management of the land resource under the Hamilton City Operative District Plan.</p> <p>Since the 1950s, the area has been modified in the past via agricultural and school uses the existing ecosystem have been modified. Although rezoning of the 14 hectares. The proposal to rezone the area from rural to urban will amend the provisions applying to the area so that the existing land uses within the 14 hectares will change over time as the proposed zoning will enable the intensification of built form within the area (subject to controls as set out in the proposed rules).</p> <p>However, this is the anticipated urban form for the adjoining area within the City's urban limit so it is not it is not considered to impact on the existing ecosystem. This having been modified through redevelopment of the Former Church College site in accordance of consented activities being constructed. The open nature of the area that presently buffers the existing built forms and true rural activities will be lost through urbanisation however it is noted that a large proposition of the 14 hectares will have limited development potential due to geotechnical constraints (peat) which will ensure a degree of 'buffer' remains.</p> <p>It is considered the degree of impact the proposed plan change will have on Part 2, RMA matters is negligible.</p>
<p>Degree of policy risk, implementation risk, or uncertainty</p>	<ul style="list-style-type: none"> • Community reaction • Whether: • Novel, untested approach • Weak evidence base • High uncertain benefits and costs • Dependent on other initiatives (such as non-RMA mechanisms) • Challenging implementation timeframes 	<p>The Council will not achieve its statutory obligations to ensure all land under its jurisdiction is managed via its district planning framework; the retention of the Temple View Zone's CDP rules could be challenged for being unlawful; and continuing to show inaccurate boundaries for the SNA may lead to poor planning outcomes in the future.</p>