

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

IN THE MATTER **of a Plan Change to the Operative**
Hamilton City District Plan under
Schedule 1 of the Act, referenced as
Plan Change 3 (PC3)

IN RELATION TO: TEMPLE VIEW BOUNDARY ALTERATION

HAMILTON CITY COUNCIL HEARING

APPOINTMENTS

The Hamilton City Council (HCC) confirmed the appointment of Murray Kivell and Shane Solomon as an independent Hearing Commissioner Panel pursuant to Sections 34 and 34A of the Resource Management Act 1991 (RMA 1991) to hear and determine this Plan Change.

Council also appointed Murray Kivell as Chair of the Panel.

We provide this report and accompanying decision to the Hamilton City Council. This report has been prepared after considering all the submissions and the further submission received to the Plan Change, the presentations by the submitters at the hearing, the section 32 evaluation reports, the reports prepared by the Applicant and the Council officer team and the evidence also presented at the hearing including the written Right-of-Reply from the Applicant.

NOTICE OF DECISION PURSUANT TO SCHEDULE 1, CLAUSE 10 OF THE RESOURCE MANAGEMENT ACT 1991

DETAILS OF THE PLAN CHANGE: TEMPLE VIEW BOUNDARY ALTERATION

Application Reference: Hamilton City Council (HCC)	Plan Change 3 (PC 3)
Public Notification Date	27 February 2019
Public Notification of Summary of Submissions	24 April 2019
Submissions Received (7)	David Walmsley Patrica Picken Meshweyla Macdonald Church of Jesus Christ of the Latter-Day Saints Board (The Church – LDS) Crystal Mann NZ Transport Agency (NZTA) Fay and Mark Bell
Late Submissions (1)	Waikato Regional Council (WRC)
Further Submission (1)	Church of Jesus Christ of the Latter-Day Saints Board (LDS)
Hearing Date	20 June 2019 (adjourned) and 15 August 2019
Site Visit Completed	20 June 2019 <u>Attendees at site visit:</u> Panel members Kivell and Solomon - accompanied by David Heperi, Project Accountant from the Church
Appearances at hearing: 20 June 2019	<u>Council as Applicant/Proponent:</u> Laura Galt, S42A reporting planner and Alice Morris (15 August 2019 – on enquiry from the Panel, the two parties to the 15 August hearing had no concerns with Ms. Morris presenting the Council Right-of-Reply) Alastair Black, Transportation Engineer Regan Robinson, Water Resources Engineer (and 15 August 2019) Dr. Liz Curry, Senior Ecologist (specialist report forms part of s42A report. Ms Curry was unavailable to attend hearing) <u>Submitters:</u> Chris Dawson, Planner (on behalf of Church of Jesus Christ of the Latter-Day Saints Board) (and 15 August 2019) Fay and Mark Bell (and 15 August 2019 – part thereof) Crystal Mann (tabled a statement, but was unavailable to attend hearing) NZ Transport Agency (Ms Morse tabled a statement but was unavailable to attend hearing)
Directions 1 Directions 2 Directions 3	Issued prior to adjournment 20 June, and in written form 21 June canvassing matters for Council consideration as part of written right-of-reply, and to be received by 12 July 2019 Setting the date for the re-convened hearing. Requiring pre-circulation of outstanding information recording matters agreed and/ or dis-agreed.
Hearing Close	15 August 2019

DECISION

The Decision is set out below.

Acting under delegated authority from the Hamilton City Council to hear the submissions and further submissions on Proposed Plan Change 3 (PPC3) – Temple View Boundary Alteration, the Commissioners, pursuant to Clause 10 of the First Schedule of the Resource Management Act 1991, and the Hamilton City Operative District Plan, confirm:

- 1 Plan Change 3 is approved, with modifications described in the Schedules below; and**
- 2 The submissions and further submissions which supported the Plan Change and/or sought further changes to the Plan Change are accepted to the extent that the Plan Change is approved with the modifications described below; and**
- 3 All other submissions and further submissions, including those that opposed the Plan Change, are rejected.**

Schedules:

- 1 Clean Version of Relevant District Plan Chapters**
- 2 Track changed versions of Relevant District Plan Chapters**

DECISION REPORT

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Schedules:

- 1 Clean Version of Relevant District Plan Chapters**
- 2 Track changed versions of Relevant District Plan Chapters**

1 INTRODUCTION

- 1.1 This hearing was to consider and determine, this Plan Change to the Hamilton City (HCC) Operative District Plan (District Plan). The Plan Change seeks to rezone an area of 14 hectares to an urban zoning under the Hamilton City Operative District Plan (2016), and no longer be subject to the Rural zone provisions as they were under the July 2014 version of the Waipa Operative District Plan.

Procedural Matters

Scope

- 1.2 Patrica Picken (Submitter #2) raised the opportunity to provide road links between the development and Wallace Road. This matter is addressed by the Council on page 14 of Appendix A to the s42A report in considering this submission point (02.01). It is concluded, correctly in our opinion, that the relief is for works outside the geographical boundaries of the Plan Change rezoning and therefore is not 'on' the Plan Change. Therefore, the matter is beyond the scope of this Plan Change and the Panel to consider. This determination is consistent with the interpretation of caselaw concerning 'scope' in our opinion.

Late Submission

- 1.3 The WRC lodged a late submission dated 9 April 2019. The submission closing period was 29 March 2019. In relation to our delegations under section 37 RMA 1991 we accept this submission and confirm this with reasons in our Decision.

2 PLAN CHANGE – OVERVIEW

- 2.1 Ms. Galt, the reporting policy planner from Council provided the following useful overview of the Council initiated Plan Change in section 2.3 of her report:

Temple View is located on the western side of Hamilton's urban boundary, south-west of the suburb of Dinsdale and north-east of Koromatua located within the Waipa District. The 14 hectares is located to the rear of the former Church College site and sits below the level of Tuhikaramea Road. The former College, the Temple and Temple View settlement straddle Tuhikaramea Road are approximately 2km south-west of the urban edge of Hamilton.

The 14 hectares previously contained the sports fields, tennis courts and the maintenance hub for the college. Following the closure of the college and the commencement of the redevelopment of the former campus, the site has been cleared of all buildings and is being used for 'pre-loading' materials.

The surrounding area to the south-western side of the 14 hectares is rural and is an operational dairy unit. North-west of the 14 hectares, the former college area is undergoing a major redevelopment programme to provide for greater housing stock and associated amenities.

Temple View was transferred from Waipa District Council to Hamilton City Council in 2004 and included land surrounding the Church of Jesus Christ of Latter-Day Saints Temple and most of the area occupied by the former Church College. However, an area of approximately 14 hectares of the Church College campus remained under the jurisdiction of the Waipa District Council.

In 2007, Hamilton City Council undertook a variation (Variation 7 to the 2001 Hamilton City Proposed District Plan) to incorporate the Temple View area into Hamilton's planning framework.

In 2014, The Church of Jesus Christ of Latter-day Saints Trust Board (LDS) applied to the Local Government Commission for a minor boundary alteration to bring the remaining 14 hectares of college campus into Hamilton. This process was subsequently completed, and the boundary alteration was gazetted in July 2014 in accordance with the Local Government Act 2002.

In accordance with the RMA, the local authority receiving the land is required to undertake a change to its district plan to ensure the acquired land is managed in accordance with that local authority's planning framework.

Therefore, the purpose of Plan Change 3 is to ensure that the land brought into Hamilton in 2014 is no longer subject to the zoning provisions of the Waipa District Plan. It seeks to align the zoning of the 14 hectares with the existing Temple View zone that is already applied to the rest of the former Church College site. Plan Change 3 is also an opportunity to amend the district planning provisions for the Temple View Zone to improve plan administration.

(emphasis added)

- 2.2 From the Panel's perspective it is also worth noting the following commentary from Mr Dawson's statement of evidence, at his paragraphs 7 and 8:

The Church has owned all of the Church College land and the land comprising the Plan Change 3 area along with the surrounding rural land since the early 1950s (see Attachment 1). Although the Church College of New Zealand closed in 2009, the Temple View community retains a strong association with the Church of Jesus Christ of Latter-day Saints.

The primary goal of the Church in relation to the former Church College site is best expressed as follows: (a) The primary goal of the former Church College repurposing project is to provide long-term protection of the sanctity and environment of the Hamilton New Zealand Temple by repurposing the former school property in ways that will complement and enhance family life and the economic vitality of the Temple View community.

And, at paragraphs 13 and 14:

In 2012 the Church made application to the Local Government Commission, supported by both Hamilton City Council and Waipa District Council to bring the 14 hectares of land within the jurisdiction of Hamilton City Council. This process was given effect in the New Zealand Gazette No. 73 dated 10 July 2014.

Plan Change Three is the next step required under that process and fulfils section 81 (3) of the Act which states: "A territorial authority shall, as soon as practicable but within 2 years, make such changes to its district plans as it considers necessary to cover any area that comes within its jurisdiction, and, after the changes are made, this section shall cease to apply."

- 2.3 This captures the historic context and the aspirations of the Church and the Council to put in place a coherent planning framework for this balance area in Temple View.

- 2.4 In bringing this land parcel into the City and its planning framework requires a series of amendments to five chapters or appendices to the Operative District Plan; namely:

Chapter 5: Special Character Zones;

Chapter 23: Subdivisions;

Appendix 1: District Plan Administration;

Appendix 4: Special Character Zones; and

Appendix 17: Planning Maps.

3 RELEVANT STATUTORY FRAMEWORK

Decision making Considerations

- 3.1 A local authority is required to make a decision on the provisions and matters raised in submissions to a Plan Change (Clause 10, Schedule 1).
- 3.2 A decision must include reasons for acceptance or rejection of submissions and may also address submissions in groups and include consequential alterations to the Plan Change and any other relevant matter arising from submissions. A local authority may decline, approve or approve with modifications a Plan Change and give reasons for its decision. (Clause 29(4), Schedule 1 of the RMA).

Statutory Considerations

- 3.3 Section 74(1) requires that a territorial authority prepare and change its plan in accordance with:
- its functions under s31 of the RMA;
 - the provisions of Part 2 of the RMA;
 - its duty under s32 of the RMA; and
 - any Schedule and regulations.
- 3.4 Section 31 specifies the functions of territorial authorities including:

*the establishment, implementation and review of objectives, policies and methods to achieve integrated management of the effects of the use, development or protection of land and associated natural and physical resources of the district, (including for the purposes of avoidance or mitigation of natural hazards and the maintenance of indigenous biological diversity); and
the control of effects of use, development or protection of land, including noise.*

- 3.5 Section 75 determines that District Plans must state (s75(1)):

*(a) the objectives for the district; and
(b) the policies to implement the objectives; and
(c) the rules (if any) to implement the policies.*

and what they may state (s75(2)):

*(a) the significant resource management issues for the district;
(b) the methods, other than rules, for implementing the policies for the district;
(c) the principal reasons for adopting the policies and methods;
(d) the environmental results expected from the policies and methods;
(e) the procedures for monitoring the efficiency and effectiveness of the provisions;
(f) the processes for dealing with issues that cross territorial authority boundaries;
(g) the information to be included with an application for a resource consent; and
(h) any other information required for the purpose of the territorial authority's functions, powers, and duties under this Act.*

- 3.6 It also outlines that a District Plan must give effect to (s75 (3)):

(a) any national policy statement;

*(b) any New Zealand coastal policy statement; and
(c) any regional policy statement.*

and that a district plan must not be inconsistent with (s754)):

*(a) a water conservation order; or
(b) a regional plan for any matter specified in s30(1).*

- 3.7 Section 77A (quoted below) is also relevant and allows a council to specify conditions in rules in a plan so long as they relate to matters in s108 RMA:

Power to make rules to apply to classes of activities and specify conditions

(1) A local authority may—

(a) categorise activities as belonging to one of the classes of activity described in subsection (2); and

(b) make rules in its plan or proposed plan for each class of activity that apply—

(i) to each activity within the class; and

(ii) for the purposes of that plan or proposed plan; and

(c) specify conditions in a plan or proposed plan, but only if the conditions relate to the matters described in section 108 or 220.

Section 32 Evaluation

- 3.8 Section 32 requires an evaluation:

- Of the extent to which the objectives of the Plan Change are the most appropriate way to achieve the statutory purpose of the RMA;
- Whether the provisions are the most appropriate way to achieve the objectives taking into account the options, efficiency and effectiveness of the provisions;
 - The costs/ benefits of the environmental, social, cultural and economic effects (including opportunities for economic growth and employment); and
 - The risk of acting/ not acting if there is uncertainty about the subject matter of the provisions.

- 3.9 Under Section 32AA a further evaluation is required of any modifications to the Plan Change Request that we as a Panel make. In this regard, we note that the Council has provided an updated (section 32AA) Evaluation report that is set out in **Appendix C** to the s42A report.

Schedule 1

- 3.10 Schedule 1, Part 1 records the process to follow for new Plans and Plan Changes in terms of notification for submissions and further submissions, the hearing and finally the formal adoption of the Change and to have legal effect.

4 SUBMISSIONS

- 4.1 Eight submissions with 30 submission points were received on the notified proposed Plan Change. One further submission was received, with 10 further submission points. One late submission was received from Waikato Regional Council (submission 08). The Panel has accepted this late submission for the reasons outlined in our Decision.

- 4.2 We note that the submitters include:

- David Walmsley (Submitter #1);
- Patrica Pickin (Submitter #2);

- Meshweyla Macdonald (Submitter # 3);
- The Church of Jesus Christ of Latter-Day Saints Trust Board (Submitter #4, and a further submitter);
- Crystal Mann (Submitter #5);
- Fay and Mark Bel (Submitter #6);
- NZ Transport Agency (Submitter # 7); and
- Waikato Regional Council (Submitter #8).

4.3 A summary analysis of the submissions and submission points was presented in **Appendix A** to the reporting planner's s42A report and covered the following topics:

- General
- Figure 4-5 Temple View Precinct Plan
- Privacy Wall and Covered Walkway
- Chapter 5 – Activity Status Table
- Chapter 5 – Restricted Discretionary Activities: Matters of Discretion and Assessment Criteria
- Rule 23.7.3 Subdivision Design Standards
- Design Guide
- David O McKay Building
- Stormwater
- Transport
- Significant Natural Areas (SNA).

4.4 For the record, we received and reviewed copies of the submissions and further submissions that were contained in **Appendix E** of the reporting planner's report. We further note that we have considered all submission and further submission points in making our decision on the merits of the Plan Change.

4.5 We have also considered the technical reports appended to the Planning Officer's report and specifically the expert advice in **Appendix D** (Transportation Advice – Gray Matter, Significant Natural Area designation - Tonkin and Taylor, and Stormwater Submission review – Tonkin and Taylor) and two reports provided by Mr Dawson that outlined the comprehensive development approach and the design guide adopted by The Church of Jesus Christ of Latter-Day Saints Trust Board (LDS) to manage the process of urban development on their land holding namely:

- Comprehensive Development Plan Application for CDP1 (November 2016);
- Temple View Design Guide (September 2018); and
- Copies or (or parts of) the resource consent conditions issued by the Council for consented residential development adjacent to the Plan Change area.

5 HEARING

5.1 The Council presentation at the hearing comprised the following:

- A written summary statement of evidence from Ms. Galt (and a written Right-of-Reply presented by Ms. Morris);
- A PowerPoint summary of the transportation evidence of Mr Black;
- A spoken overview of the stormwater issues associated with the development by Mr Robinson; and
- A spoken precise of Dr. Curry's report concerning the SNA by Ms. Galt.

- 5.2 We have not summarised the detailed evidence which is fully recorded in the circulated evidence of the Council apart from noting the following.
- 5.3 **Ms Galt** noted that the PC focused on:
- the removal of the 'development plan' mechanism in the Temple View Zone to address the principles of the Environment Court decisions regarding the vires of such provisions in District Plans;
 - the accurate definition of the Significant Natural Area (SNA) in Temple View based on Dr Curry's expert evidence – this being un-contested evidence;
 - the consequential amendment to the Natural Open Space zoning to reflect these SNA boundaries;
 - the inclusion of the 'Community Focal Point' on Figure 5; and minor editorial changes to policies and methods to ensure consistency with the administration of the District Plan; and
 - an updated assessment on the submissions and Council's recommendations on the key matters, of which we consider further in *Section 7 – Principal Resource Management Issues and Findings*.
- 5.4 **Dr Liz Curry** was unavailable to discuss her ecological assessment, and in this respect, we relied on Ms Galt's feedback to address our few questions.
- 5.5 **Mr Black** advised us on the potential traffic effects arising from the urbanisation of the land in the Plan Change area, his opinion on the traffic concerns raised by submitters namely the NZ Transport Agency, and offered a draft rule to address and manage future growth in traffic on the City road network and at key intersections on the city wide network.
- 5.6 The two submitters who attended the hearing presented evidence in support of their submission points, and we summarise those below to the extent that they defined the matters of difference between the Council as the proponent and a submitter.
- 5.7 **Mr Dawson** presented an informative statement addressing a range of concerns arising from the s42A report including: the changing character of the area, the suitability of the peat land for housing, the Temple View Precinct Plan, the explanation in support of the objectives and policies, the role of a design guide, stormwater management and reverse sensitivity issues, transport and significant natural areas.
- 5.8 **The Bells** spoke to their submission. They stated that their property shared a 200-metre boundary along the Church's northern boundary. They have farmed this land for 30 years. They said that the development was 'good' for the area 'providing consultation takes place regarding stormwater'. The Bells illustrated by way of photographs that over recent years flooding of their farmland had occurred and that this was following the earthworks being undertaken by the Church associated with their re-development. They were supportive of a rule to effectively safeguard their farmland from periodic flooding resulting from the urban development enabled by the Plan Change.

6 PLAN & POLICY FRAMEWORK

- 6.1 As noted above, sections 74 and 75 state the matters which must be considered by the Council in preparing or changing a Plan and its contents. Section 75 requires to either

'give effect to' or 'not be inconsistent with' certain other policies, plans and rules under the Act.

- 6.2 The relevant policies we must give effect to are the National Policy Statements on Electricity Transmission, Renewable Electricity Generation, Urban Development Capacity and the Waikato Regional Policy Statement. None of these Statements were challenged by any party to the hearing.
- 6.3 The focus of this Plan Change essentially is to 'sleeve' this 14-hectare parcel of land into an established planning regime across the entire land holding of the Church, under a Temple View zone. In this respect, any issues regarding objectives, policies, rules and standards is to be considered within the ambit of these established provisions. The consideration of individual submission points provided for the Panel the most appropriate framework within which to consider any higher-order objectives and policies. Our s32AA evaluation summary in our *Section 9 - Section 32AA refers*, as does the Council's own s32AA report (Appendix C to the S42A Report).

7 PRINCIPAL RESOURCE MANAGEMENT ISSUES & FINDINGS

- 7.1 Section 113 of the RMA directs, in the case of decisions on resource consent applications, to state the principal issues that were in contention and to state the main findings of fact in relation to those issues.
- 7.2 As background, we commenced our assessment of the PC matters in the same manner and sequence as set out in the s42A report under Appendix 1 – Analysis and Recommendations. We accept and adopt that approach and the Recommendations as stated in the following circumstances:
- The evidence written, submitted and presented by way of submission or oral evidence presented at the hearing; and / or
 - The s42A report assessment that has remained unchallenged during the course of the hearing; and / or
 - The s42A report assessment that has subsequently been revised as to settle a matter with a submitter(s) – this was the focus of the reconvened hearing where the Principal Resource Management Issues were further addressed by the parties.
- 7.3 From this review, we determine that the matters of principal concern between the Council and submitters were relatively few, and focus on four matters along with recording the consequential changes required to the Plan Change:
- Merits of the rezoning;
 - Transportation;
 - Stormwater management;
 - Reverse Sensitivity;
 - SNA Definition; and
 - Recording Track Changes and editorial/drafting improvements.
- 7.4 We have assessed the principal resource management issues in the following format:
- Issue/Topic to be determined; and
 - Evaluation; and
 - Determination.

- 7.5 We preface our analysis by recording that apart from the first matter evaluated below, there was a consensus established between the three ‘active’ parties in the hearing; namely the Council, LDS - the sole landowner in the Plan Change (PC) area, and the Bells (Submitter #6).

Merits of the rezoning

- 7.7 Ms. Cann (Submitter #5) opposed the rezoning in its entirety based upon the change in character that would result from the development of formerly rural land. Ms. Cann also questioned whether there was any need for the land to be used for urban (residential, community and retail) purposes, and also suggested that the soils were unsuitable for development.

Evaluation

- 7.8 The evidence presented to the Panel affirms that a robust options analysis was completed by the Council in the lead up to the formal notification of the PC to gauge the merits of different land use zoning approaches. Paragraph 2.7 of the Right-of-Reply of Ms. Morris refers.
- 7.9 To maintain and enhance its special character, design guidance has been developed to support and inform consenting processes required for establishing new single and duplex dwellings. Paragraphs 2.10-2.13 of the Right-of-Reply refer. Visual character associated with a new built environment should not be equated to a loss of character in the Panel’s opinion, in this case. We have also viewed the Temple View Design Code September 2018 and note in particular that the intention of the Code is to have “the style of this building to complement the special modernist Temple View architectural character”.
- 7.10 We note that development and building on peat soils is a separate consenting matter under the Building Act and the Resource Management Act and no evidence was advanced to support any contrary position or the land’s general un-suitability for urban development.

Determination

- 7.11 The land rezoning and supporting objectives, policies, rules and assessment criteria for development of the Precincts are an appropriate resource management approach to provide for the major re-development of the area and to provide for additional housing stock. Therefore, Ms. Cann’s submission is not supported and is rejected for the reasons noted above.

Transportation

- 7.12 The NZTA sought the Council identify any necessary upgrades to ensure that the surrounding network relating to SH23 and SH39 can safely accommodate traffic from future development of this area. WRC submitted that development provide proposed road alignments, widths and typical cross sections that will be compatible for public transport.
- 7.13 Mr Black, Council’s Transportation Engineer affirmed that there was “risk of incremental effects of smaller developments causing cumulative adverse effects on the road network”. There was a sound resource management reason namely the safety of users of the road networks, to provide a more specific area rule that addressed overall network performance at the time of first subdivision creating lots or development in the PC area.

Evaluation

- 7.15 The Panel confirms their support for the redrafted rule as set out below, arrived at, at a caucusing meeting by the Council and the LDS. We understand the NZTA has not expressed any reservations regarding this new provision. We also support the expert opinion of Mr Black that provided the future road network complies with the performance designs and standards set out in the District Plan then public transport services are capable of being accommodated in the future as development proceeds.
- 7.16 For clarity, the revised rule settled on and supported by the Panel is:

“A Broad ITA shall be prepared at the time of the first subdivision creating any additional lots, and/or any new development within Temple View Zone Precinct 3 identified in Volume 2, Appendix 4, Figure 4-5.

The Broad ITA shall assess the transport effects of Precinct 3 including the proposed subdivision and/or proposed new development and the remaining developable area of Precinct 3.

In addition to the Broad ITA content specified in 25.14.4.3 m) the assessment shall include, but not be limited to, specific consideration of demand, levels of service and options for mitigation at the following intersections:

- Tuhikaramea Road/State Highway 23
- Tuhikaramea Road/Kahikatea Drive/Gibson Street
- Tuhikaramea Road/Collins Road”

Determination

- 7.17 The above area specific ITA Rule 25.14.4.3e)iii) is confirmed as it will identify and mitigate potential safety and efficiency transport effects arising from the rezoning proposal. With respect to public transport ‘capacity’, the District Plan already provides opportunities during a subdivision consenting process for public transport services and routes to be considered, so there is no reason to seek further amendment of these operative Plan provisions.

Stormwater management

- 7.18 The Panel sought further evidence on this matter as part of our Directions 3 made available to the parties during the adjournment of the hearing. We were concerned about the clarity of the provision for instance, the term “neutral impact on the hydraulic capacity”.
- 7.19 The general area is acknowledged to comprise peat soils and support a generally high-water table throughout most of the year. Development within the PC area is likely to cause increased flooding and ponding of neighbouring farmland otherwise unaffected by the current pattern of land uses. The concern is that more intensive urban activities will adversely impact the adjoining property and result in increased run-off beyond the site, ponding and increased flooding of productive farmland.
- 7.20 The provision to address stormwater management as part of the PC was re-examined to improve the clarity of purpose and administration by Council in future consenting considerations by the LDS. It was supported by new technical evidence presented at the reconvened hearing regarding flood and ground water management as part of a stormwater management system approved under a sub-catchment ICMP. This technical assessment took into account the potential impact of stormwater on the neighbouring Bell property by the now widened channel and pond system located on the LDS land.

Evaluation

- 7.21 As a result of caucusing between Council, LDS and the Bells we were informed that a revised provision has been recommended to the Panel to mitigate adverse effects of both flood and groundwater levels on the surrounding agricultural land.
- 7.22 We also record that agreement has been reached with the Council that on completion of each stormwater pond and following a two-year defects liability period, each of the stormwater ponds will vest in the Council. Mr Dawson's Further Statement of Evidence, paragraph 10 refers.

Determination

- 7.23 The revised provision, Rule 5.3.4.1c) is accepted as appropriate under the RMA. The amended wording is:

"Any development of Precinct 3 in the Temple View Zone shall be designed to mitigate adverse effects on the flood and groundwater levels on the surrounding agricultural land within the Waipa District adjoining the northern and eastern boundaries of Precinct 3."

- 7.24 This approach will inform consenting processes and ensure technical solutions to mitigate adverse effects should be designed, assessed and determined iteratively as development proceeds within the PC area.

Reverse Sensitivity

- 7.25 The Panel sought further evidence and clarity on this matter as part of Directions 3 made available to the parties during the adjournment of the hearing. Following consultation between the Council, the LDS and the Bells we were presented with a revised provision.
- 7.26 The following wording was promoted as new text in Appendix 1, section 1.2.2.8a of the Information Requirements:
- p) Demonstrate how reverse sensitivity will be managed, and how the proposed development will address the interface between the urban activities within Hamilton City and the rural activities within Waipa District.*

Evaluation

- 7.27 Our enquiry of all three parties in attendance at the reconvened hearing the Panel confirm our general support for the inclusion of this provision at the reconvened hearing.

Determination

- 7.28 The Panel supports this new provision as it focuses attention on the specific interface at issue here, being the interface between established rural activities and pending urban activities and principally new housing development.

SNA Definition

- 7.29 The Waikato Regional Council (WRC) and the LDS submissions concerned the determination of the 'correct' boundary to the Significant Natural Area (SNA) in the PC area.

Evaluation

- 7.30 The concerned feature SNA 14.1 'Temple View Kahikatea'. Dr. Curry's report deals with the matter and the Panel relies on this assessment, while noting that there was no alternative or contrary expert advice received.

- 7.31 From Ms. Curry's site walkover, she confirms that the additional area of kahikatea planting on the eastern side of the SNA immediately adjacent to the Chapel should be included as this will offer ecological enhancement and buffering to the existing SNA.
- 7.32 Ms. Curry has provided an up to date map and associated GIS layer to the Council, a copy of which formed part of her written report.

Determination

- 7.33 The Panel accepts and relies on the advice of Dr. Curry that the additional trees be included in the SNA boundary for ecological enhancement and strengthened buffering, and we observed from this our site visit. The amended plan maps and GIS layer therefore are also accepted as appropriate for inclusion in the District Plan.

Summary - Track Change Chapters

- 7.34 A fully tabulated set of track change chapters, tables and maps were provided by Ms. Morris at the reconvened hearing, as part of the Right-of-Reply from the Council.

Evaluation

- 7.35 The Panel enquired of the changes and their rationale on a chapter by chapter basis. The Panel also took the opportunity to invite the submitters in attendance to comment and where necessary confirm their agreement to the changes proposed relevant to them.
- 7.36 The Panel records that there were no outstanding matters of disagreement between the Council, LDS and the Bells.

Determination

- 7.37 On our own further review we determine that there is no reason to make further changes to the Plan Change as settled on between the parties. Therefore, the Panel supports the PC as presented in Schedule 1. Schedule 2 records the track changes to the provisions that evolved during the planning process including during this hearing.

8 PART 2 MATTERS

- 8.1 For completeness we make brief comment on the statutory framework and Part 2. Section 5 sets out the purpose of the Act and sections 6-8 contain the hierarchy of considerations which must be specifically considered by decision – makers.
- 8.2 A number of aspects of Part 2 are relevant. There are no matters of national importance under Section 6 that require our consideration. With respect to Section 7 Other Matters, we have considered the following matters in our overall evaluation:
- (b) the efficient use and development of natural and physical resources;*
 - (c) the maintenance and enhancement of amenity values;*
 - (f) maintenance and enhancement of the quality of the environment; and*
 - (g) any finite characteristics of natural and physical resources*
- 8.3 From our overall review of the evidence received and considered from the Applicant, the submitters and the Council, we conclude that appropriate consideration has been given to these above matters as to satisfy us that the Plan Change to align the 14 hectares

with the existing Temple View zone that is already applied to the former Church College site is in accordance with Part 2 of the Act.

9 SECTION 32AA FURTHER EVALUATION

- 9.1 We note that the Council assessed, when completing the s32 Evaluation Report that no new objectives were to be introduced, some amendments were proposed to the policies but that “those are considered to be minor and therefore of a very low scale and significance’ (Plan Change 3: Temple View Boundary Alteration February 2019 Section 2.0 Section 32). The amendments were focused on rules and methods specific to the Temple View zone and are suggested to not impact on the strategic framework of the District Plan. We agree with this summation.
- 9.2 A further evaluation is required only for those changes made to the proposal since completion of the original s32 evaluation. This further evaluation must be undertaken in accordance with s32(1)-(4) and be ‘at a level of detail that corresponds with the scale and significance of the changes (s32AA(1)(a)-(c).
- 9.3 In summary, the Panel determines that the changes made essentially ‘finetune’ and improve the clarity and effectiveness of the Plan’s provisions in relation to the rules, information requirements and assessment criteria. Therefore, the changes made are not of a fundamental or strategic importance as to require our revisiting in a substantive manner the s32AA Evaluation Report of June 2019.
- 9.4 For the record, these key further considerations (and changes, where supported) are:
- A challenge to the overall resource management framework - the Panel has determined, based on all the evidence presented, that the PC is appropriate and sufficient, taking into account the matters below, with respect to the s32AA duty;
 - Reverse sensitivity – the Panel has determined that an additional provision is warranted to improve the purpose and clarity of the Plan’s consideration of this matter;
 - The Information Requirements for stormwater management have been clarified and strengthened so as to mitigate adverse effects of both flood and groundwater levels on the surrounding farmland recognising that the specific solutions will only be determined at the time resource consent is sought to provide for any (staged) urban development.
 - A revised ITA (Integrated Transport Assessment) rule is provided that requires the assessment of transport impacts for the whole of the new area even if development is to be staged, along with specific consideration of travel demand at key intersections on the wider network
- 9.5 In the Panel’s opinion, in relation to s32(2) these additional changes are unlikely to have any significant or quantifiable impact on economic or employment growth. For completeness, we note that s32(4) does not apply.
- 9.6 The Panel therefore is satisfied that, with these amendments, the policies, rules and methods are, having regard to their efficiency and effectiveness, the most appropriate means to achieve the relevant objectives of the PC.

10 CONCLUSIONS

- 10.1 Plan Change 3 represents the completion of a land transfer between neighbouring local authorities and the confirmation of a new zoning and resource management framework for Temple View. The elements of the Plan Change seek to 'sleeve' new and therefore customised provisions in to various sections of the Hamilton Operative District Plan.
- 10.2 The submissions received and reviewed and the one further submission received from the LDS, the sole landowner of land within the area of the Plan Change has focused on improving the focus and clarity of the provisions. This will enable the Council to be the administrator of the new regulatory regime and for the landowner to be clear about the nature and scope of the planning provisions under which compliance will be required, as it fulfils its aspirations to urbanise in a staged manner a site on the perimeter of Hamilton City.

11 DECISION & REASONS

The decision is set out below.

Acting under delegated authority from the Hamilton City Council to hear the submissions and further submissions on Proposed Plan Change 3 (PPC3) – Temple View Boundary Alteration, the Commissioners, pursuant to Clause 10 of the First Schedule of the Resource Management Act 1991, and the Hamilton City Operative District Plan, confirm:

- 1 Plan Change 3 is approved, with modifications described in the Schedules below; and**
- 2 The submissions and further submissions which supported the Plan Change and/or sought further changes to the Plan Change are accepted to the extent that the Plan Change is approved with the modifications described below; and**
- 3 All other submissions and further submissions, including those that opposed the Plan Change, are rejected.**

The **Reasons** for the Decision are that the Plan Change will:

- (i) With the modifications adopted, assist the Council to carry out its functions so as to achieve the purpose of the Resource Management Act 1991.
- (ii) With the modifications adopted, ensure that the Plan Change aligns with the Operative Waikato Regional Policy Statement, and the Operative Hamilton City District Plan.
- (iii) The changes are required to ensure that all of the actual and potential adverse effects on the environment are considered and that provisions are in place to ensure that the adverse effects are avoided, remedied, or mitigated.
- (iv) The section 32 and section 32AA RMA evaluation and further evaluation have shown that the Plan Change as modified represents the most appropriate way to achieve the purpose of the Resource Management Act 1991.

(v) The Plan Change as modified is in accordance with the purpose and principles of the Resource Management Act 1991.

4 The Plan Change is recorded in Schedule 1. Modifications made to the Plan Change are recorded in Schedule 2.

5 That the late submission by Waikato Regional Council is accepted.

The Reason:

(i) The acceptance of the late submission will enable the relief sought to be considered. The interests of the community will be better served by acceptance of the late submission.

Schedules:

- 1 Deliberations - Clean Version of Relevant District Plan Chapters
- 2 Deliberations – Track changed versions of Relevant District Plan Chapters



Murray Kivell
Hearing Panel Chair



Shane Solomon
Hearing Commissioner

26 August 2019

Schedules 1 & 2 follow as Attachments