

IN THE MATTER

of the Resource Management Act 1991

AND

IN THE MATTER

of Proposed Private Plan Change 2 to the
Hamilton City Operative District Plan: Te Awa
Lakes Private Plan Change

**JOINT MEMORANDUM OF COUNSEL FOR THE APPLICANT AND
HAMILTON CITY COUNCIL**

DATED 16 OCTOBER 2019

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TO THE INDEPENDENT HEARING COMMISSIONERS:

1. This joint memorandum of counsel is filed on behalf of the Applicant and Hamilton City Council (“HCC”).
2. The Panel should now have received the HCC’s section 42A report prepared by Mr Eccles on Proposed Plan Change 2 to the Operative Hamilton City Plan (“PPC2”).

Hearing procedure – no need to adjourn part-heard

3. Largely as the result of further information from the Applicant and expert caucusing, the issues between the Applicant and HCC (and certain other submitters) have been refined substantially. The reporting officer concludes in his interim recommendation that he sees “no impediment to full acceptance of PPC2 on bigger picture strategic landuse and reverse sensitivity grounds”. This is a view that is shared by HCC’s City Planning Manager, Mr O’Dwyer, who has provided a statement of evidence as part of the section 42A report, where he concludes that “while the PPC could potentially result in some strategic planning effects, on balance those impacts are acceptable.
4. Despite the position reached in the s42A report, the issue of strategic land use is likely to remain a central, and live issue for hearing. However, Counsel considers that even so, there is currently no reason to adjourn the hearing at the conclusion of hearing evidence on that issue.
5. Accordingly, Counsel therefore wish to convey to the Panel their preference that the hearing of PPC2 be completed (in its entirety) within the two weeks currently allotted, on the basis that there is currently no need for the matter to be adjourned part-heard following the first block of topics as indicated in para 5(g) of the Directions dated 16 September 2019.
6. In relation to the reasons for an adjournment mooted at paragraph 5(g), counsel also respectfully submit that:
 - (a) To the extent that any further information may be required by the Panel, above and beyond what has been provided by way of additional reports, in the section 42A report and in the evidence to be exchanged, or through clarification sought at

the hearing, that can be done through the Applicant's right of reply.

(b) It would be inappropriate in the current circumstances, in our opinion, to reach a preliminary view (or issue an interim decision) on the strategic issues *without* having heard from the parties on the key effects-based issues which inform the broader picture, such as transportation effects, geotechnical issues, and urban design and landscape issues. Indeed, it is noted that the section 42A report writer seeks to be satisfied on several technical issues for the residential aspects of PPC2 and so that information is a key part of what should be a normal, holistic hearing of all matters.

7. Counsel respectfully seek a direction that the hearing of PPC2 take place within the already allotted two weeks, on a topic-by-topic approach, with the strategic topics to be followed by effects-based topics. Such a direction would be subject to the standard reservation of the commissioners' right to regulate the hearing procedure, once underway, as they deem appropriate.
8. Counsel will liaise with the Independent Hearings Facilitator and the other parties calling expert evidence to agree a proposed order for the effects-related topics.

Amendment to directions – Labour Day

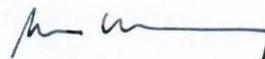
9. Paragraph 5(e) of the Panel's Minute #6 dated 30 June 2019 states that the Applicant is to provide its evidence no later than Monday 28 October 2019. As Monday 28 October 2019 is in fact Labour Day and is not a "working day" under the RMA, counsel respectfully seek the following amendments to the directions in paragraphs 5(e) and (f):
 - (e) The Applicant's evidence is to be provided to the Hearing Panel through Mr Rice for circulation to all parties no later than ~~Monday, 28~~ Tuesday, 29 October 2019.
 - (f) Any Submitter expert evidence is to be provided to the Hearing Panel through Mr Rice for circulation to all parties no later than ~~Monday, 11~~ Tuesday, 12 November 2019.

10. The above direction ensures that both the Applicant and expert witnesses for submitters have ten working days to respond to the section 42A report and the Applicant's evidence respectively.

DATED 16 October 2019



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Counsel for the Applicant



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Counsel for HCC