

**BEFORE THE ENVIRONMENT COURT  
AT AUCKLAND**

**I MUA I TE KŌTI TAIAO  
TAMAKI MAKAURAU ROHE**

**ENV-2022-AKL-**

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

**AND**

**IN THE MATTER** of an appeal under Clause 14(1), First Schedule of the Act in relation to the Proposed Waikato District Plan Decisions

**BETWEEN** **Hamilton City Council**

Appellant

**AND** **Waikato District Council**

Respondent

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**NOTICE OF APPEAL ON BEHALF OF HAMILTON CITY COUNCIL AGAINST  
DECISION ON PROPOSED WAIKATO DISTRICT PLAN**

**Dated 1 March 2022**

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To: **The Registrar  
Environment Court  
Auckland**

1. Hamilton City Council (**HCC**) appeals against parts of the decision of Waikato District Council on the Proposed Waikato District Plan (**PDP**).
2. HCC made submissions and further submissions on the PDP.
3. HCC is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991 (**RMA**).
4. HCC received notice of the decision on or about 17 January 2022.
5. The parts of the decision that HCC is appealing relate to:
  - a) Appeal Point 1: Strategic directions – SD-06 and SD-09;
  - b) Appeal Point 2: General Rural Zone – GRUZ-01; and
  - c) Appeal Point 3: Commercial Zone/Motorway Service Area Overlay/Rule COMZ-R18.

**General reasons for appeal**

6. In general, the parts of the decision appealed against do not accord with the relevant requirements of the RMA and are contrary to Part 2 of the Act.
7. Without limiting the generality of the reasons for the appeal outlined at paragraph 6 above, the parts of the decision appealed:
  - a) Will not promote the sustainable management of natural and physical resources;

- b) Are contrary to good resource management practice;
- c) Do not promote the efficient use and development of natural and physical resources; and
- d) Do not appropriately address the specific issues set out in the following paragraphs.

### **Appeal Point 1: Strategic directions**

- 8. HCC appeals part of the decision recorded in Decision Report 5: Strategic Directions. The parts of the decision appealed are the decisions to adopt the wording of SD-06 and SD-09 as set out on page 35 of the Decision Report.

### **Reasons for Appeal Point 1**

- 9. The Hamilton Urban Expansion Area (**UEA**) is an overlay to protect three identified land areas from unplanned and uncoordinated urban development before it is transferred from the Waikato District to Hamilton City. The decision on the PDP significantly weakens the protection of the UEA afforded under the operative Waikato District Plan.
- 10. HCC seeks amendments to SD-06, the strategic objective relating to the UEA, to ensure that the land resource is protected from both subdivision and land uses that would compromise well-planned and integrated planning of the area and preserve it for future urbanisation. HCC considers that SD-06 should be strengthened to address the “preservation” of the land resource in addition to avoiding it being “compromised”.

11. HCC supports the growth pattern set out in the Future Proof Strategy and the Waikato Regional Policy Statement (**WRPS**). Allowing development outside of defined growth areas results in ad hoc development which creates unanticipated demand for urban services. Substantial growth outside the defined urban areas is unsustainable and compromises the Future Proof Strategy and WRPS settlement patterns.
12. HCC seeks amendments to SD-09, the broad overarching strategic objective relating to rural activities to ensure that non-rural land uses are appropriately managed, and that growth is directed to identified growth cells.
13. HCC considers that the amendments to the Strategic Directions chapter sought below better achieve integrated management of the land resource and better achieve the purpose of the RMA.

#### **Relief sought for Appeal Point 1**

14. HCC seeks the following amendments to SD-06 and SD-09 (deletions shown in strikethrough and additions shown in underline):

SD-06 Hamilton's urban expansion area

Subdivision and ~~Land uses~~ within Hamilton's Urban Expansion Area preserves the land resource for urbanisation and does not compromise its future urban development

...

SD-09 Rural activities

The rural environment provides for ~~a range of~~ rural activities, including primary production and food supply, and limits development to activities that have a functional need to locate in that environment.

**Appeal Point 2: General Rural Zone**

15. HCC appeals part of the decision recorded in Decision Report 22: Rural Zone. The part of the decision appealed is the decision to delete part of the notified wording of GRUZ-01 as shown on page 34 of the Decision Report.

**Reasons for Appeal Point 2**

16. HCC's submission on the PDP in respect of the Rural Zone sought to ensure that rural land is protected for rural uses. The majority of land surrounding the Hamilton City boundary has rural zoning. There is high potential for land use and subdivision in these surrounding areas to conflict with the strategic land use and infrastructure planning of Hamilton City.
17. HCC seeks that GRUZ-01, the overarching purpose objective for the Rural Zone, ensures that ad-hoc and inappropriate urban development does not occur in the Rural Zone. In that regard, HCC considers that the PDP decision version of GRUZ-01 is weaker than the PDP notified version which included that "(3) Urban subdivision, use and development in the rural environment is avoided". HCC seeks to reintroduce (3) to GRUZ-01.
18. HCC considers that the amendment to the General Rural Zone chapter sought below better achieves integrated management of the land resource and better achieves the purpose of the RMA.

**Relief sought for Appeal Point 2**

19. HCC seeks the following amendments to GRUZ-01 (deletions shown in strikethrough and additions shown in underline):

## GRUZ-01 Purpose of the Zone

- (1) Enable farming activities;
- (2) Protect high class soils for farming activities;
- (3) Urban subdivision, use and development in the rural environment is avoided;
- (34) Provide for rural industry, infrastructure, rural commercial, conservation activities, community facilities, and extractive activities;
- (45) Maintain rural character and amenity;
- (56) Limit development to activities that have a functional need to locate in the zone.

**Appeal Point 3: Commercial Zone/Motorway Service Area Overlay/COMZ-R18**

20. HCC appeals part of the decision recorded in Decision Report 280: Zoning – Rest of District. The part of the decision appealed is the decision to rezone part of Lot 2 DP 304594 (**Greenhill site or site**) from Rural Zone to Commercial Zone and to apply a Motorway Service Area Overlay to the rezoned part of the site and to introduce new Rule COMZ-R18.

**Reasons for Appeal Point 3**

21. The decision to rezone part of the Greenhill site from Rural to Commercial Zone and introduce a Motorway Service Area Overlay over that part of the site is inconsistent with the relevant higher order planning documents, including:
- a) The WRPS which requires new urban development to occur within the identified urban limits<sup>1</sup> and be integrated, sustainable and planned<sup>2</sup>;
  - b) The National Policy Statement on Urban Development 2020 which requires well-functioning urban environments that are well-served by existing or planned infrastructure; and

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<sup>1</sup> Policy 6.14, Objective 1.12.8(b)(ii).

<sup>2</sup> Objective 3.12.

- c) The Future Proof Strategy<sup>3</sup> which provides that keeping growth to defined urban areas provides development certainty, encourages a more compact urban form, and allows local authorities to stage and time key areas for development resulting in more cost effective and efficient servicing of infrastructure.
22. The Hamilton City urban limit is mapped in the WRPS under Map 6.2 (section 6C) and also on Maps 1 and 2 of the Future Proof Strategy. The commercial zoning and Motorway Service Area Overlay extend the boundary of Hamilton City beyond the identified urban limit, and is therefore not integrated, sustainable, or planned or an efficient use of land as required by the WRPS.
23. It is unclear exactly what types of activities are permitted to establish under the Motorway Service Area Overlay and new Rule COMZ-R18 which gives commercial activities restricted discretionary activity status. Notably, omitted from the matters of discretion are effects on compact urban form and cross-boundary effects in respect of Hamilton City. Given this uncertainty, HCC is concerned that the provisions allow for an unplanned and unintegrated large-scale centre to establish on the UEA boundary (the future Hamilton City boundary), which functions as a destination for non-expressway custom.
24. Such a development is likely to create significant adverse effects on Hamilton's transport networks and the State Highway network, including inhibiting the efficient movement of people and freight in a key strategic transport corridor for the Waikato Region. HCC considers that the traffic effects of a Motorway Service Centre on the site, which attracts both motorway and local traffic, renders the site inappropriate for commercial zoning for the express purpose of a Motorway Service Centre.

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<sup>3</sup> Section 6.4.

25. HCC is also concerned that the decision will create a precedent effect. Land adjoining new state highway infrastructure will inevitably attract developer interest. This is particularly likely where the land is in close proximity to Hamilton City. HCC is concerned that enabling a service centre to establish in this location will establish a precedent for further development to proliferate along the Hamilton Expressway section in a manner which does not accord with HCC's strategic land use and infrastructure planning.
26. HCC considers that the amendments sought below are necessary to better achieve integrated management of the land resource and better achieve the purpose of the RMA.

**Relief sought for Appeal Point 3**

27. HCC seeks the following amendments in respect of the Greenhill site:
  - a) Amend the planning maps so that all of the Greenhill site is zoned General Rural Zone;
  - b) Remove the Motorway Service Area Overlay from the Greenhill site;  
and
  - c) Delete Rule COMZ-R18.

**General relief sought**

28. HCC seeks the following relief:
  - a) The relief set out under the headings 'relief sought' above;



- b) Such further orders, relief, consequential amendments or other amendments as are considered appropriate and necessary to address the concerns set out above; and
- c) Costs of and incidental to this appeal.

**Attachments**

29. The following documents are attached to this notice:

- a) **Attachment 1:** A copy of HCC's submissions and further submissions on the PDP.
- b) **Attachment 2:** A copy of the relevant parts of the decision.
- c) **Attachment 3:** A list of names and addresses of persons to be served with a copy of this notice.

Dated 1 March 2022



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L F Muldowney / S K Thomas  
Counsel for Hamilton City Council

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Documents for service on the Council may be:

- (a) Left at the address for service; or
- (b) Posted to the solicitor at PO Box 9169, Waikato Mail Centre, Hamilton 3240.

### **Advice to recipients of copy of notice of appeal**

#### *How to become party to proceedings*

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal.

To become a party to the appeal, you must,—

- within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
- within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Act.

You may apply to the Environment Court under section 281 of the Act for a waiver of the above timing or service requirements (see form 38).

**Advice**

If you have any questions about this notice, contact the Environment Court in Auckland.