

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of a submission by Hamilton City Council in respect of
the PROPOSED WAIKATO DISTRICT PLAN pursuant to
Clause 6 of Schedule 1 to the Act

**STATEMENT OF EVIDENCE OF
LAURA JANE GALT
ON BEHALF OF HAMILTON CITY COUNCIL**

8 September 2020

Hearing 18: Rural Zone

INTRODUCTION

1. My full name is Laura Jane Galt. I am an Intermediate Planner at Hamilton City Council ('HCC'). I have been a planner at HCC for approximately 13 years.
2. I have over 13 years' policy planning experience in local government under the Resource Management Act 1991 ('RMA').
3. My qualifications include a Master of Environmental Planning from the University of Waikato (2011), and a Bachelor of Social Science with Honours from the University of Waikato (Resource and Environmental planning, 2006). I am an intermediate member of the New Zealand Planning Institute.
4. HCC made submissions and further submissions on Chapter 22: Rural Zone which is the subject of Hearing 18.

RELEVANT EXPERIENCE

5. My experience spans a variety of planning practice including:
 - a) Making submissions on proposed district plans and resource consent applications;
 - b) Environment Court mediation on cross boundary resource consents;
 - c) Authoring s42A reports for in district plan review and plan change processes; and
 - d) Participation in various district plan review and plan change hearings.

CODE OF CONDUCT

6. I have read the Environment Court Code of Conduct for expert witnesses and agree to comply with it. I confirm that the opinions expressed in this statement are within my area of expertise except where I state that I have relied on the evidence of other persons. I have not omitted to consider materials or facts known to me that might alter or detract from the opinions I have expressed.

SCOPE OF EVIDENCE

7. The purpose of this evidence is to address:
 - a) The submission points made by HCC that are relevant to Hearing 18; and
 - b) The response to the HCC submission points in the s42A report for Hearing 18.

SUMMARY OF EVIDENCE

8. HCC made submissions and further submissions on Chapter 22: Rural Zone which is the subject of Hearing 18.
9. In Hearings 1 and 2, HCC provided a broad overview of the relief it seeks through the district plan review process and the strategic land use context within which the Waikato Proposed District Plan ('WDPDP') exists¹. Hearing 3 focused on the strategic framework of the WDPDP, where all subordinate planning directions cascade from. HCC's submissions and evidence provided a strategic overview for Council's submissions relating to the Strategic Objectives of the WDPDP and the strategic policy basis for

¹ Opening legal submissions on behalf of HCC for Hearing 1 dated 26 September 2019.

the specific relief sought. I refer to some of those matters in my evidence for Hearing 18 as they provide important context for the relief sought by HCC in Chapter 22: Rural Zone.

10. My evidence focuses on four key submission points relating to the Rural Zone. HCC's submission 535.28 on Objective 5.1.1 seeks to maintain the policy as notified. In response to other submissions the s42A author recommends an amendment to include the term 'community activities' in the objective. HCC has two concerns with this. The first is the recommendation of the s42A author for Hearing 5 that it be deleted from the definitions and replaced with definition of 'Community Facilities' to align with the National Planning Standards, further the s42A author for this hearing recommends a new policy 5.3.4 introducing a quasi-definition by stating community activities include child care, education, health and spiritual activities. The second concern relates to the Discretionary activity status introduced for education, child care and community facilities located in the Urban Expansion Area ('UEA').
11. HCC's submission point 535.70 on Rule 22.1.5 – Non-Complying activities sought that all non-rural activities are made prohibited in the UEA. The s42A recommends that non-complying status is retained for most non-rural activities and rural-related activities that will frustrate future urban growth. The author also recommends that education, child care and community facilities are made Discretionary activities.
12. There are two reasons why all these activities should be made Prohibited. In accordance with *King Salmon*², the word 'avoid' in Policy 5.5.2 means "not allowing" or "preventing the occurrence of"³ subdivision, use and development. A Non-complying activity status still leaves it open for urban activities to establish or the fragmentation of land to occur. Equally, it might be determined that an application does not compromise future

² *Environmental Defence Society Inc v New Zealand King Salmon Co Ltd* [2014] NZSC 38.

³ At [96].

development because infrastructure could simply be placed around it in the future. This does not enable comprehensive and integrated planning of the area.

13. HCC considers the best way to avoid piecemeal non-rural development is to prohibit these activities until an integrated and comprehensive planning analysis is undertaken for this area, when it is brought into Hamilton in accordance with the Strategic Agreement on the Future Urban Boundaries between HCC and Waikato District Council ('Strategic Agreement') see **Appendix 1**⁴. This requires a strong directive policy framework in support of the prohibited activity status.
14. I am advised that the Strategic Agreement is currently being reviewed and that the timing of the transfer of land within the UEA is likely to be sooner than the triggers identified in the Strategic Agreement.
15. The s42A author's reasons for recommending the introduction of certain Discretionary activities in the UEA are flawed. The UEA is not yet a suburban residential urban environment and the form of development is not yet determined. The s42A assertion that the size of buildings is modest is incorrect. The recommendation to allow for 5000m² building coverage on sites over 10ha represents approximately 70% of the lots in the UEA. Furthermore, the subdivision provisions do not restrict development as sites can develop without subdividing. Finally, the reasoning that because of the size of the site, future infrastructure can be located around any of these activities is exactly the type of ad hoc planning that HCC seeks to avoid in the UEA. The best way of ensuring that the area can be comprehensively planned in an integrated manner is to prohibit any land use in the UEA that would compromise well planned and integrated future urban development.

⁴ See Opening legal submissions on behalf of HCC for Hearing 3 dated 4 November 2019 paras 29-31.

16. HCC's submission point 535.73 on Rule 22.4.1.2 sought that the prohibited activity status for subdivision in the UEA in the Rural Zone be retained as notified in order to protect the land resource which will be transferred to HCC in the future. The s42A report recommends amending Rule 22.4.1.2 so that subdivision moves from prohibited to non-complying activity status.
17. The s42A author's reasoning for the recommendation misses the fundamental point of HCC's submission 535.73. The provisions of the UEA provide a critical statutory means to achieve the outcomes of the Strategic Agreement. The basis for the UEA provisions, and HCC's interest in protecting the land resource, is about giving HCC the best chance to urbanise the land in the most effective and efficient manner after it is transferred and avoiding the legacy issues HCC has experienced in the past⁵. The potential low yield of additional lots is immaterial to determining the most appropriate activity status within the UEA to achieve that objective.
18. I agree with the other recommendations recorded in the s42A report concerning HCC's submission points as set out in Table 1 (see paragraph 35 below).

DOCUMENTS AND MATERIAL CONSIDERED

19. In preparing my evidence, I have considered the following information:
 - a) The RMA;
 - b) National Policy Statement for Urban Development Capacity 2016 ('NPS-UDC');
 - c) National Policy Statement for Urban Development 2020 ('NPS-UD');

⁵ Statement of Evidence of Luke O'Dwyer for Hearing 3 dated 15 October 2019, paras 45-47.

- d) Operative Waikato Regional Policy Statement ('WRPS');
- e) The Waikato District Operative District Plan 2011 ('WDODP');
- f) The WDPDP and Section 32 analysis;
- g) Section 42A reports for Hearings 3, 5, 10 and 12;
- h) Future Proof Growth Strategy 2009 and the 2017 review;
- i) Statement of evidence of Luke O'Dwyer dated 15 October 2019;
- j) Statement of evidence of Alice Morris dated 15 October 2019; and
- k) Statement of evidence of Loren Brown dated 25 November 2019.

HCC SUBMISSIONS – RELEVANT TO HEARING 18

20. The s42A reports for Hearing 18 dated 25 August 2020 are broken into two separate reports. One addresses the Objectives and Policies and the Land Use provisions; the second addresses the Subdivision provisions. The two reports address nine submission points made by HCC, summarised as 535.29, 535.30, 535.31, 353.50, 535.51, 535.52, 535.70, 535.72 and 535.73 in the Waikato District Summary of Submissions. HCC's submission point 535.28 on Objective 5.5.1 has not been addressed in the s42A report; however, the author does address and make recommended amendments to this Objective based on other submissions. These submissions are set out in Table 1 (see paragraph 35 below).
21. HCC made submissions on matters that I consider to be relevant to this hearing and to the future hearings, which are not addressed in the s42A report. As per verbal instructions to submitters at a hearing on 6 November 2019, the Hearings Panel advised it was useful to raise these

at this early stage, recognising that these too will need to be addressed again during other relevant upcoming hearings. The additional submissions I consider to be relevant are submission points: 535.9, 535.13, 535.14, 535.53 and 353.54 (which were allocated to Hearing 3 on Strategic Objectives); and further submissions allocated to the Zone extents hearing.

22. Each of these will now be addressed, not necessarily with any expectation they will be determined in the Hearing 18 process. Rather, they are raised to provide the wider context for HCC's interest in the Rural Zone and how the Rural Zone provisions intersect with other parts of the WDPDP.
23. The suite of submissions made on the Rural Zone and the Strategic Objectives of the WDPDP, when considered in their entirety, paint a clearer picture of the full extent of the issues relevant to HCC than the individual points do.

Submissions on the Strategic Objectives

24. In HCC's submission on the WDPDP, an 'Area of Interest' was referred to as the broad geographic area, near to the boundary with HCC, where there is a high potential for land use and subdivision to affect wider strategic planning, including planning for infrastructure needs and ongoing maintenance undertaken by HCC. The Area of Interest is marked on the map included as Attachment 2 to the Statement of Evidence of Mr Luke O'Dwyer dated 15 October 2019, presented in Hearing 3. I rely on the opening legal submissions to the Hearings Panel presented on behalf of HCC on 30 September 2019 by Mr Lachlan Muldowney, along with the evidence of Mr O'Dwyer for Hearing 3, for the detailed explanation of how the extent of the Area of Interest was determined.
25. HCC's submission point 535.9 sought the overarching relief for the management of land uses around its boundaries within HCC's Area of

Interest. The key outcome sought in HCC’s submission was to protect rural land through avoiding rural land fragmentation and by ensuring growth is directed to identified growth cells. HCC does not propose that development be prohibited in the Rural Zones or Country Living Zone (‘CLZ’). Rather, as a means of achieving the outcome sought in its submission, HCC provided a suite of objectives and policies in the evidence of Ms Alice Morris dated 15 October 2019 in Hearing 3 to ensure that growth and development within HCC’s Area of Interest appropriately manages non-rural land uses and provides for efficiently-integrated infrastructure.

26. Hearing 3 also addressed HCC submission points 535.13 and 535.14, Policies 4.1.3 a) and b) – Location of Development. HCC sought the following amendment to Policy 4.1.3(a) (shown in underline):

Subdivision and development of a residential, commercial and industrial nature is to occur within towns and villages where infrastructure and services can be efficiently and economically provided in a coordinated manner with other developments; and

27. Infrastructure is critical to enable growth and must be carefully and sustainably managed from a cross-boundary perspective. As provided in the evidence of Ms Morris for Hearing 3:⁶

When that infrastructure is sourced from outside the district, the sustainability of both the land resource of the district and where the infrastructure is sourced from must be addressed. If there is no coordination on infrastructure matters, the sustainability of Hamilton’s land resource could be impacted.

28. HCC made a submission on Objective 5.1.1, the broad overarching strategic objective for the rural environment⁷. The submission sought to retain Objective 5.5.1 as notified “subject to ensuring alignment and giving effect to the HCC Area of Interest and supporting objectives, policies, rules and

⁶ Statement of Evidence of Alice Morris for Hearing 3 dated 15 October 2019, paragraph 39.

⁷ Submission point 535.53.

methods". HCC maintains its support for Objective 5.1.1. and is satisfied that the notified version provides sufficient protection to the area identified as HCC's Area of Interest against "urban subdivision, use and development in the rural environment". That being the case, if retained as notified, there is no need to distinguish the Area of Interest from the rest of the rural environment (except for the UEA) with its own objectives and policies.

29. However, to the extent that Objective 5.1.1 is weakened (including through the amendments to Objective 5.1.1(ii) recommended in the s42A report which HCC opposes), and the door opened for such urban activities to establish in rural areas, HCC seeks that it either be retained, as notified, for the HCC Area Of Interest, or a bespoke set of provisions for the HCC Area of Interest be established that provide stronger protection against urban activities establishing. Reliance on this outcome is placed on HCC's evidence and submissions provided in Hearing 3. HCC considers that there is a lack of direct policy support for Objective 5.1.1(iii) and that it warrants its own separate supporting policy.
30. Fundamentally, HCC supports the growth pattern set out in Future Proof and the WRPS. Allowing development outside of defined growth areas results in ad hoc development which creates unanticipated demand for urban services (transport and three waters). Substantial growth outside the defined urban areas is unsustainable and compromises the Future Proof and WRPS settlement patterns. HCC's submission seeks to avoid that outcome.

UEA

31. The Strategic Agreement identified areas of land to be transferred to HCC in the future, subject to agreed triggers. Three areas yet to be incorporated into Hamilton City are WA, R2 and HT1. The principles established by the

Strategic Agreement allowed for land within the Waikato District to be managed to retain the rural / productive nature of the land until such time as it is required for urbanisation. The principles of the Strategic Agreement were then translated into the WDODP as the Urban Expansion Policy Area⁸ ('UEPA') (see Rule 25.5(f)).

32. The constraints imposed under the UEPA provisions in the WDODP have ensured the protection of high-class soils and the protection of the land resource by avoiding ad hoc development and subdivision to ensure future urbanisation is not compromised and allowing for a more practical conversion in due course.
33. The corresponding provisions in the WDPDP adopt the term 'UEA'. The majority of the land within the 3 remaining areas is zoned Rural with the exception of an area of CLZ on the western boundary of area HT1 (approx. 71ha). Accordingly, submission points 535.53 and 535.54 sought the inclusion of mechanisms which ensure that future urban development potential of the land in the UEA was not compromised.
34. The wider strategic picture and background outlined above is useful to understand HCC's position on the role of the Rural Zone. It also helps in understanding HCC's interest in retaining the provisions as notified and not providing for further development that will place pressure on existing and planned development. It also sets out the background to the Strategic Agreement and how this relates to the UEA. Against that backdrop, I will now outline my evidence relating directly to Hearing 18 matters.

⁸ Statement of Evidence of Luke O'Dwyer for Hearing 3 dated 15 October 2019 paragraphs 36 – 40.

HCC SUBMISSIONS – HEARING 18

35. The s42A report addresses the identified HCC submission points in the following way:

	HCC submission	S42A response	HCC Response
Sub 535.28 Objective 5.1.1	Sought retention of Objective 5.1.1 and supports the intent of the objective to protect rural land.	Amended policy for clarity and inserted other activities that are supported in the Rural Zone	Support the amendment of the policy for clarity. Oppose the inclusion of 'community activities' in the amended objective.
Sub 535.29 Objective 5.2.1	Retain Objective 5.2.1 Rural resources.	Amend the Objective to include the word accessibility and delete clauses (iii) and (iv)	Support the amendment of the Objective for the reasons provided by the s42A author.
Sub 535.30 Policy 5.2.2	Retain Policy 5.2.2 High class soils.	Retain as notified, noting that the policy maybe subject future plan change in relation to NPS on productive soils	Support the s42A recommendation.
Sub 535.31 Policy 5.2.3	Retain Policy 5.2.3 Effects of subdivision and development on soils as notified.	Amend policy by deleting clause (b) as a new policy 5.3.8 is proposed to address clause (b).	Support the s42A recommendation.
Sub 535.50 Policy 5.3.3	Retain Policy 5.3.3 Industrial and commercial activities.	Amend policy to relate specifically to rural industry and rural commercial and amending the industrial and commercial activity status to non-complying	Support the amendment to differentiate between rural industry/commercial and industrial/commercial activities. The amended policy clearly articulates that the rural industry and rural commercial are activities that support rural activities

			and are expected in the rural zone but still need to be managed. Furthermore, the policy clearly states that pure industrial and commercial activities are to be avoided in the rural zone and supported by new non-complying activity status.
Sub 535.51 Policy 5.3.8	Retain Policy 5.3.8 Effects on rural character and amenity from rural subdivision.	Delete the notified policy 5.3.8 and replace with a new policy 5.3.9 Rural Subdivision	Support the new policy which has been rewritten to clarify the policy and provide a clear direction for the subsequent subdivision rules.
Sub 535.52 Policy 5.3.9	Retain Policy 5.3.9 Non-rural activities.	Delete notified policy 5.3.9 and replace it with new policy 5.3.4	Support the reordering and the intent of the new policy however question the list of activities in (b) (i).
Sub 535.70 Rule 22.1.5 Non-Complying Activities	Delete the non-rural activities from Rule 22.1.5 NC4 – UEA and add to Rule 22.1.1 Prohibited Activities.	Retain non-rural activities as non-complying and community activities, schools and childcare DA in the UEA	Oppose and seek all non-rural activities be made prohibited in the UEA.
Sub 535.72 Rule 22.4.1.1 PR1	Retain the prohibited activity status for Rule 22.4.1.1 PR1 Prohibited Subdivision. AND Add a clause to Rule 22.4.1.1 P1 Prohibited subdivision as follows: Any boundary relocation	Amend subdivision to non-complying in the UEA	Oppose and seek the retention of the prohibited activity status for subdivision in the UEA as notified.

	or rural hamlet subdivision. AND Any consequential amendments and/or additional relief required to address the matters raised in the submission.		
Sub 535.73 Rule 22.4.1.2 RD1	Amend Rule 22.4.1.2 RD1 (a) (ii) General subdivision, as follows: (a)(ii) The Record of Title to be subdivided must be at least 40 hectares in area; AND Any consequential amendments and/or additional relief required to address the matters raised in the submission.	Amended to 40ha	Support the s42A recommendation to amend the parent lot to a 40ha minimum.

Further Submissions	HCC's further submission	S42A response	HCC response
302.44 Enviro Waste NZ Ltd	Oppose the submission to allow commercial and industrial activities in the Rural Zone.	Reject the submission and make commercial and industrial activities in the Rural Zone non-complying as they have no functional need to establish in the Rural Zone	Support the s42A recommendation and reasons.
Rule 22.4.1.2 RD1 (multiple)	Oppose the amendments to the General Subdivision that would result in	Accept and retain lot sizes and Record of Title date as notified.	Support the s42A recommendation.

	more subdivision in the Rural Zone.		
Transferable Lot Subdivision 922.1 J Rowe, 746.65 The Surveying Company, 695.162 Sharp Planning Solutions, 794.27 Middlemiss Farm Holdings Limited	Oppose Transferable Lot Subdivisions as it would result in more unplanned growth and land fragmentation in the Rural Zone.	Reject the submissions and do not provide for Transferable Lot Subdivisions in the WDPDP.	Support the s42A recommendation.
Activity status of childcare 596.2 Pokeno Playcentre, 607.2 S Hooper, 617.2 N Falkner	Oppose the amendment of childcare from discretionary to a permitted activity in the Rural Zone	Introduce a 2-tier activity status. PA for childcares with less than 4 non-resident children and RDA for 5 or more children.	Support the amendment for childcare in the rural zone as small in-home care does not affect the rural environment and the RDA provides assessment of effects for larger child cares.
781.27 Ministry of Education	Oppose the reduction of the activity status for education.	Support the reduced activity status for education.	Oppose the s42A recommendation to the change in activity status in the UEA.
697.456, 697.559 Waikato District Council	Oppose retirement villages in the Rural Zone.	The Rural Zone is not an appropriate location for new retirement villages	Support the s42A recommendation to retain the non-complying activity status in the Rural Zone.
Lyndendale Farms Ltd	Oppose the establishment of retirement village at 180 Horsham Downs Road.	The Rural Zone is not an appropriate location for new retirement villages	Support the s42A recommendation to retain the non-complying activity status in the Rural Zone.
765.3, .4, .5, .13, .19 Tamahere Eventide Trust (Atawhai Assisi	Oppose any relief changing activity status of retirement villages and changes	Introduced a two-tier activity status for existing retirement	Support the amendment to allow for existing retirement villages in the Rural and CLZ zones

Retirement Village) 769.4, .5 & .6 Tamahere Eventide Trust (Tamahere Retirement Village)	to provisions which would allow incremental expansion in the CLZ	villages (linked to legal description). Permitted (P19) – where it does not increase the net floor area. Restricted Discretionary (RD8) – where it increases the net floor area provided it meets conditions of specific Land Use Effects and Buildings Rules.	subject to appropriate matters of discretion.
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Table 1: s42A response to HCC submissions

36. HCC generally supports the recommendations that introduce into the objectives, policies and rules the requirement to consider ‘the scale and nature of the activity being consistent with managing urban growth through the consolidation of townships and the extent to which it is necessary to locate in the rural zone’, which is in line with the recent NPS-UD.

37. Where the s42A report recommends that the relief sought by HCC above be rejected, I respond as follows:

Submission point 535.28 – Objective 5.1.1 – Rural resources and Submission point 535.52 – Policy 5.3.9 – Non-rural activities

38. The s42A hearing report addresses Objective 5.1.1 – The Rural Environment in paragraphs 63 to 73. HCC’s submission 535.28 on this Objective has not been discussed in the s42A report as it has been allocated to Hearing 26 – Other Matters, as the support is conditional to the effects of HCC’s Area of Interest being addressed. However, it is relevant to Rural

Zone matters and, as such, is also addressed in my evidence submitted for this hearing.

39. In response to other submissions the s42A report author concludes that the rural environment includes a range of activities that are not specifically related to farming activities, such as rural industry, community activities and mineral extraction. The s42A records⁹:

I understand that the intent of these submissions is to recognise at a strategic objective level that the rural environment quite legitimately includes a range of activities that are not related solely to active farming activities. The subsequent policy and rule framework provide for a range of rural-related community activities, rural industry, and activities such as mineral extraction which are inherently located in rural environments. I agree that the scope of the chapter, and the outcomes sought for the rural environment, are broader than simply farming, and that it is therefore appropriate for the objective to recognise the need to support a wider range of activities that are anticipated in the rural environment, whilst not threatening the strategic directions regarding urban growth management. It is noted that clause (ii) remains subject to the need to maintain or enhance the rural environment, and likewise complements clause (iii), which seeks to avoid urban development.

40. While I agree with the s42A author that the rural environment does include activities other than simply farming, HCC's concern is with including community activities within clause (ii) of the policy for the following reasons.
41. The first is that the s42A author for Hearing 5 has recommended that the definition of 'community activities' is deleted from the definitions and replaced 'community facilities'¹⁰ to align with the National Planning Standards.
42. Secondly, the term 'Community activities' is then used in the new - Policy 5.3.4 – Other anticipated activities in rural areas - as follows:

5.3.4 Policy – other anticipated activities in rural areas

- (a) Enable activities that provide for the rural community's social, cultural, and recreational needs, subject to such activities being of a

⁹ At paragraph 72.

¹⁰ *Community Facility means: land and buildings used by members of the community for recreational, sporting, cultural, safety, health, welfare, or worship purposes. It includes provision for any ancillary activity that assists with the operation of the community facility.*

scale, intensity, and location that are in keeping with rural character and amenity values and are consistent with managing urban growth through a consolidated urban form.

(b) Activities subject to this policy include:

(i) **Community activities including child care, education, health, and spiritual activities;**

(ii) Recreation activities that require a rural or extensive open space setting including equestrian and horse training centres, gun clubs and shooting ranges, golf courses, and walking and cycling trails;

(iii) Emergency Service facilities;

(iv) Conservation activities.

[Emphasis added].

43. This is problematic as the policy provides a quasi-definition of 'Community activities' by stating it 'includes child care, education, health and spiritual activities'. A further concern for HCC is that the s42A author later determines that education, child care and community facilities should be a discretionary activity (D5) in the UEA¹¹. I will address HCC's concerns regarding the discretionary activity status in response to submission point 535.70 below.

44. HCC seeks the amendment of the policy by deleting 'community activities' from Objective 5.1.1 (a) (ii); and amendment of 5.3.9 (b) (i) as follows:

(b) Activities subject to this policy include:

(i) ~~Community activities including child care, education, health, and spiritual activities;~~ Community facilities and education.

Submission point 535.70 – Rule 22.1.5 - Non-complying activities

45. HCC's submission point 353.70 seeks to amend the activity status for non-rural activities within the UEA to have a prohibited activity status. The s42A author recommends that the non-complying activity status for non-rural activities in the UEA is retained and that community activities, education and childcare are discretionary activities in the UEA. I will first discuss the non-complying activity status and then the concerns with the discretionary activity status in the UEA.

¹¹ At Paragraph 331

46. The s42A author starts his analysis in paragraph 327 by supporting the Hearing 3, s42A recommendation on Objective 5.5.1 and Policy 5.5.2 which relate to the UEA as follows:

327. Objective 5.5.1 and associated Policy 5.5.2 relating to Hamilton's UEA were considered in the s42A report on Strategic Directions. No changes were recommended to the objective which seeks to 'protect land within Hamilton's Urban Expansion Area for future urban development'. It was however recommended that Policy 5.5.2 be amended as follows: 'manage avoid subdivision, use and development within Hamilton's Urban Expansion Area to ensure future urban development is not compromised'. The change in emphasis from being one of management to one of avoiding development was recommended so that the policy might better implement the objective of 'protecting' land for future urban development. The use of the term 'avoid' at a policy level likewise provides a framework for the rules that then implement the policy, such that activities that are to be avoided would generally have a noncomplying activity status, and in extreme cases a prohibited status. The recommended policy wording certainly aligns with the subdivision Rule 22.4.1.1 (PR1) as notified, which prohibits any subdivision within the UEA involving the creation of any additional lots. Submissions on the subdivision rule are assessed in the related s42A report by Ms Overwater.

328. Whilst decisions are yet to be released, I agree with the recommendation set out in the Strategic Directions report that an 'avoid' policy better achieves the intent of the UEA than a 'manage' policy. The below consideration of the land use rules is made on the basis that an 'avoid' approach is supported by the Panel.

329. As well as being considered in the Strategic Directions hearing, the role of the UEA and associated rules was also considered in the Country Living Zone hearing, as a small area of Country Living Zone is located within the UEA. The s42A closing statement (the officer response following the hearing) contains a helpful comparison between the Operative Plan provisions relating to the UEA and the provisions recommended for the Country Living Zone. The Country Living recommendations included a shift from prohibited to noncomplying for subdivision. Ms Overwater addresses subdivision in the Rural Zone, and has likewise recommended a non-complying activity status based on the limited number of additional lots that could be created under the recommended subdivision rules and associated minimum site size requirements. 330. The key outcome sought in the UEA is to ensure that the orderly expansion of Hamilton is not frustrated or prevented by ad hoc development, or by the fragmentation of larger blocks into multiple lots with different ownership. This purpose is clearly signalled at a policy level, with the objective being to 'protect' this potential. The policy, as recommended by the Strategic Directions report, is to achieve this protection through avoiding subdivision and development in order to ensure that future urban development is not compromised. The rules are tools to implement this policy direction. As a framework, activities within the UEA that have no or limited potential to compromise urban

development are therefore able to be permitted (or restricted discretionary where they may have localised effects), and conversely activities that threaten orderly urban growth should be non-complying (or prohibited, as sought by the submitters).

47. Whilst I agree with the reasons set out by the s42A author as to why HCC wishes to protect land within the UEA for future urban development, I do not agree with the conclusion reached that these activities should have a non-complying activity status.
48. In paragraph 332 the s42A author sets out how a non-complying activity would be assessed; he also notes that it is not an easy pathway for resource consent and that it provides an option to consider site-specific applications where applicants can design their activity to not compromise future urban growth. HCC considers that even providing the option for resource consent is misleading as presently no-one can demonstrate this as the integrated and comprehensive analysis and planning has not yet occurred. However, the key concern is that a consent is considered, as it is determined that the activity does not compromise future development because the infrastructure (pipes and road) can just go around it later.
49. This is exactly the type of piecemeal planning that HCC seeks to avoid. The non-complying activity status does not allow for the protection of the land resource and compromises future urban development. HCC considers the best way to avoid piecemeal non-rural development is to prohibit these activities until an integrated and comprehensive planning analysis is undertaken for this area, when it is brought into Hamilton in line with the Strategic Agreement. This requires a strong directive policy framework in support of the prohibited activity status.

Rural Industry and Commercial

50. HCC agrees with the addition of rural industry, rural commercial and agricultural and horticultural research facilities. However, we seek a tidy

up for clarity around commercial activities by inserting the underlined works as follows:

(vi) commercial, including rural commercial

51. However, this does not change HCC's position that, as with the rest of the non-complying activities, these should also be prohibited.

Discretionary Activities in the UEA

52. HCC made several further submissions in opposition to various submitters seeking to enable community-based activities¹² such as child care, education, health and spiritual activities in the Rural Zone due to the potential impact on the management of future urban growth, particularly in the UEA.
53. I disagree with the s42A author's recommendation that education, community facilities and child cares should be discretionary activities in the UEA and I find the reasoning flawed regarding the lesser activity status. The s42A author records the following¹³:

An exception is community facilities and schools, which are recommended to be discretionary where they locate within the UEA. Such activities are normal, anticipated elements in residential suburban environments, therefore do not frustrate or prevent urban growth or the future development of housing in close proximity. The siting of buildings can limit the alignment options for future roads or pipelines, however the scale of community facilities tends to be modest, and combined with the prevention of further subdivision, means that they are located on reasonably large blocks of land where there should be options for locating future infrastructure clear of buildings.

54. Firstly, the statement that such activities are normal, anticipated elements in residential suburban environments is misleading because this area is not yet a residential suburban environment. HCC accepts that this land will be

¹² Including including childcare (Pokeno Playcentre [259.2, 596.2, 617.2], S Hooper [607.2], Parkmere Farms [696.3], education (Ministry of Education [781.27], health (Ngaakau Tapatahi Trust [654.1].

¹³ At paragraph 331.

in the future developed to an urban scale, but the actual form of any development needs to be informed through an integrated and comprehensive planning analysis for the area as a whole and not in a piecemeal manner.

55. The s42A author then states that the siting of buildings can limit the alignment options for future roads and pipelines, but the scale of those activities tends to be modest and combined with the prevention of future subdivision there should be options for locating future infrastructure around buildings.
56. This is the core of the issue for HCC; the siting of buildings, no matter the lot size, does indeed limit the alignment of future infrastructure. The s42A author recommends that Rule 22.3.6 be amended to allow building coverage up to 5000m² on sites over 10ha in size. This is a concern for HCC when approximately 70% of the existing lots in the UEA are over 10ha.
57. I do not consider 5000m² building coverage to be modest. Given the s42A author's own assertion that future infrastructure alignment could be located around it, there is every possibility that a discretionary activity¹⁴ could demonstrate that an applicant's site does not compromise future urban development without considering the comprehensive development of the area as a whole.
58. The argument that future subdivision of the land in the UEA (addressed below) will also limit these types of developments is incorrect as the land use activities are not reliant on subdivision occurring.
59. As such, HCC considers that the best way to ensure that the UEA is developed in an integrated and comprehensive manner is by ensuring piecemeal development does not occur by imposing a prohibited activity status on all non-rural activities, rural-industry and rural commercial.

¹⁴ For Education, Child care, Community Facility, Visitors' accommodation (6 or more people), Waste Management facility or Place of Assembly

60. However, HCC is not opposed to small child care centres within existing buildings/dwellings as they would not compromise future development of the UEA.

Submission point 535.72 – Rule 22.4.1.1 PR1 – Subdivision in the UEA

61. HCC's submission point 535.72 seeks to retain the prohibited activity status of subdivision in the Rural Zone within the UEA and add in Boundary Relocation and Rural Hamlet Subdivision. The s42A author recommends that the activity status be changed to non-complying for General Subdivision, Boundary Relocation and Rural Hamlet Subdivision. I support the inclusion of the two additional subdivision pathways; however, I do not agree with the recommendation to make them non-complying, nor do I agree with the arguments advanced by the s42A author in favour of non-complying activity status.
62. The s42A report analysis shows that in the UEA (HT1) only 2 lots are eligible for General Subdivision (1 additional lot each). However, there is no analysis regarding the number that could result from either boundary relocation or rural hamlet subdivision, which the author acknowledges are more likely to occur. As outlined in my evidence to Hearing 12 – CLZ, the number of lots that are affected should not determine the activity status of subdivision or activities in the UEA.
63. The s42A author¹⁵ relies on the notified version of Policy 5.5.2 which provides:
- Manage subdivision, use and development within Hamilton's Urban Expansion Area to ensure that future urban development is not compromised

I note that Objective 5.5.1 seeks to protect land within the UEA for future development.

¹⁵ At paragraph 120-123.

64. Objective 5.5.1 and Policy 5.5.2 were considered in Hearing 3 – Strategic Objectives. In HCC’s submission, it supported Objective 5.5.1 as notified (submission 535.53) and sought its retention, which was supported by the s42A author in Hearing 3.
65. However, HCC ‘s submission 535.54 on Policy 5.5.2 sought that the word ‘manage’ be deleted and replaced with the word ‘avoid’. This submission was supported and accepted by the s42A author in Hearing 3 and again by s42A author of the Rural Zone – Land Use.
66. The reason for the amendment as provided in the evidence of Ms Morris in her evidence to Hearing 3 clearly articulated why this amendment was necessary:¹⁶

This amendment provides a clear directive that no urban activities or the fragmentation of land is to occur in these identified areas. It also aligns with the prohibited activity status imposed in the rules pertaining to the UEA.

67. The best way to achieve this is by avoiding piecemeal subdivision and non-rural activities in this area until an integrated and comprehensive planning analysis is undertaken for this area when it is brought into Hamilton in line with the Strategic Agreement. This requires a strong policy framework in support of the prohibited activity status.
68. I consider that protecting land in the UEA from subdivision *now* will enable the efficient use and development of the land in the future in accordance with Section 7(b) of the RMA which states:

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—

...

¹⁶ At paragraph 61.

(b) the efficient use and development of natural and physical resources

...

69. As addressed above, comprehensive planning analysis of land in the UEA needs to be undertaken, including the location of significant sub-regional infrastructure. Understanding the area as a whole and achieving the integrated planning of the infrastructure requires it to happen in a coordinated manner and to be informed by the wider strategic planning work currently being undertaken through the H2A Plan and the Metropolitan Spatial Plan.
70. Until such planning analysis has been undertaken, taking a precautionary approach through imposing a prohibited activity status on subdivision ensures that the irreversible effects of land fragmentation, which will be detrimental to longer term urban development, are avoided.
71. Retaining the word 'manage' in policy 5.5.2 along with the non-complying activity status is concerning. The s42A author sets out that non-complying activities are subject to a s104 assessment which is a 'rigorous assessment' to determine if the application should be considered.

While a prohibited status would mean that no applications can be submitted to Council for subdivision thereby ensuring absolute protection, the benefit of using a non-complying activity pathway pursuant to S104D to assess an application is that it would still provide a rigorous assessment of both the effects of the proposal and objectives and policies and determine a balanced approach based on the merits of the proposal. **For example a non-complying activity status, provides the applicant with an opportunity to demonstrate how the subdivision will not impact future urban development of the urban expansion area and in most cases if the developer could show that the resulting lot size (8,000m² – 1.6ha) could be further subdivided down to an urban density, without challenges transitioning into urban in the future this may be an acceptable application.** Conversely, if there are likely to be challenges with a proposed development, Council can decline the application.

72. The example given by the s42A author demonstrates exactly what HCC's concern is; that the ability to subdivide still exists and if an applicant can

demonstrate how a specific site can be developed to urban densities it could proceed.

73. Development within the UEA needs to be comprehensively planned and not just addressed site by site as this will not achieve an integrated development of the area. Just showing how an individual site could be further developed to urban densities would be done in isolation without a wider strategic context and understanding of the provision of integrated infrastructure for the wider UEA.
74. As noted above, the provisions of the UEA provide a critical statutory means to achieve the outcomes of the Strategic Agreement. The basis for the UEA provisions, and HCC's interest in protecting the land resource, is about giving HCC the best chance to urbanise the land in the most effective and efficient manner after it is transferred. The potential low yield of additional lots is immaterial to determining the most appropriate activity status within the UEA to achieve that objective. Any further fragmentation of the land will further degrade the land resource and HCC's ability to retrofit the land for future urbanisation purposes.
75. In conclusion, I consider that ensuring the land within the UEA is protected from subdivision requires the prohibited activity status to be retained as notified for the reasons provided above.
76. As a final comment on HCC's position on the concept of 'avoid', HCC maintains its interest in a prohibited activity status for subdivision and inappropriate development that would compromise the land resource within the UEA (for land zoned both Rural and Country Living) for future urbanisation. To align with that prohibited activity status, the relevant policy framework underpinning the UEA, in particular Policy 5.5.2, must include the word 'avoid'. HCC acknowledges that the precise drafting of Policy 5.5.2 will require refinement to fit the balance of the provisions relating to the UEA. HCC supports any amendment to Policy 5.5.2 that

strengthens the connection between the prohibited activity status and a policy framework that includes a requirement to 'avoid' subdivision and inappropriate land use within the UEA.

77. To be clear, HCC does not seek such prohibitive land use and subdivision controls in the Area of Interest, nor the wider District. HCC's interest in retaining prohibitive controls on subdivision and inappropriate development is only in the UEA.

Further submissions

78. HCC opposed the submission by Enviro Waste NZ Ltd (302.44) which sought commercial and industrial activities be allowed in the Rural Zone. HCC supports the s42A author's recommendation that industrial and commercial activities in the rest of the rural zone should be non-complying activities as they have no functional need to be located in the rural zone and should be located in the appropriate industrial and business zoned land.
79. HCC made several further submissions in relation to lot sizes for general subdivision provisions in the WDPDP (Policy 5.3.9 – Rural Subdivision, Rule 22.4.1.2 RD1 – General Subdivision).
80. I have read and agree with the s42A author's recommendation that the Record of title date, and the size of the additional lots for this rule are retained as notified.
81. As set out by the s42A author, deleting or amending these provisions would significantly increase the capacity/number of lots provided by the Rural Zone, which would compromise the character and the rural aspects of the zone.

82. I agree with the above reasons but note from HCC's perspective the reduction of lot sizes will result in increased densities in the Rural Zone within Hamilton's Area of Interest which is likely to result in impacts on infrastructure¹⁷ within Hamilton, specifically transport, 3 waters and social infrastructure. Furthermore, development could also detract growth from identified locations in the WRPS and Future Proof.
83. HCC opposed submission points 697.456 and 697.559 by Waikato District Council, which sought to allow retirement villages in the Rural Zone where they were within 800m of towns or villages. HCC similarly opposed submission points 761.5 to 761.12 by Lyndendale Farms Ltd, which sought amendments to allow a retirement village at 180 Horsham Downs Road. The s42A author recommends that these submission points are rejected¹⁸.
84. I concur with the s42A author's recommendations and reasons for making new retirement villages in the Rural Zone a non-complying activity.
85. HCC also opposes the submission points 765.3, .4, .5, .13, .19 by Tamahere Eventide Trust (Atawhai Assisi Retirement Village) and 769.4, .5 & .6 by Tamahere Eventide Trust (Tamahere Retirement Village) because of the adverse effects the continued expansion of retirement villages would have on Hamilton's infrastructure.
86. I have read and support the s42A author's recommendation to introduce a 2-tier activity status for existing retirement villages, i.e. Permitted activity status where there is no increase in the net site coverage and Restricted Discretionary where there is an increase.
87. However, as HCC's concern relates to cross-boundary infrastructure effects being considered, we seek the following amendments:

¹⁷ Paragraphs 21 -35 – Luke O'Dwyer Evidence – Hearing 3 – interactions within the Area of Interest and Impacts on Infrastructure.

¹⁸ At paragraph 98

- Rule 22.1.3 Restricted Discretionary Activities RD8 (and the relevant CLZ rule) – Matters of discretion is amended include cross boundary effects on Hamilton’s 3 waters and transport.
- Policy 5.3.8 (c) delete reference to ‘those existing at the date of the decision’ and insert reference to the three specific locations used in the activity status rules.

CONCLUSION

88. The District Plan policy framework must consider the impacts of its strategic land use planning on adjoining territorial authorities. Section 74 of the RMA requires Waikato District, through this plan review process, to have regard to the extent to which the WDPDP needs to be consistent with the plans of its neighbouring councils.
89. Broadly, HCC’s submission on the WDPDP seeks amendments to enable HCC to have input into strategic land use planning within a defined area adjacent to the HCC boundary within the Waikato District.
90. My evidence is focused on preserving the land resource in the Rural Zone in the UEA for future development. In my view, the amendments now sought, as described above, better achieve integrated management of the land resource and, fundamentally, better achieve the purpose of the RMA.

Laura Jane Galt

8 September 2020

**STRATEGIC AGREEMENT ON
FUTURE URBAN BOUNDARIES**

between

HAMILTON CITY COUNCIL AND WAIKATO DISTRICT COUNCIL

March 2005



Strategic Agreement on the Future Urban Boundaries

between

Hamilton City Council and Waikato District Council

March 2005

1.0 Preamble

Hamilton City is New Zealand's seventh largest city in New Zealand (estimated usually resident population of 125,000¹ at June 2003) and was the sixth fastest growing city between 30th June 2002 and 30th June 2003 (2.4% increase). During the period 1996-2001 Hamilton had an average annual growth rate of 1.4% pa. Hamilton City is also New Zealand's second smallest territorial authority with a land area of 9,427 ha.

The Waikato District Council is primarily a rural area with significant growth in lifestyle development. The growth of the district is approximately 1.2% per annum.

These twin pulls place considerable pressure on the future development of the city, and have consequential effects in the adjoining Districts. In many instances Hamilton City is already fully developed to the limit of its territorial boundary, and while there are a number of growth cells within the city, these too are limited in their ultimate capacity.

There is also, as a result of these limitations, considerable pressure on Waikato District, to compromise its rural landbanks for lifestyle housing and industry. Land at the periphery of Hamilton is rapidly being converted to non-farming activities, often in a random and haphazard manner. This has the potential to compromise both the effective and efficient use of the peri-urban area, and will generate unsustainable demand on Hamilton's infrastructure in time.

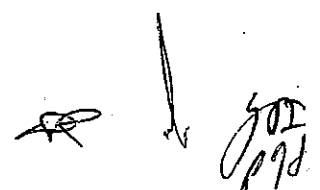
Conscious of these pressures, and mindful of the need to address both the need and aspirations of the current and future citizens of Hamilton and Waikato the councils have agreed to formally recognise the cross boundary issue that lies between them, and to put in place an agreement to guide the decision making processes, in respect of future land use and urban growth.

2.0 Purpose

The purpose of this document is to reach an agreement between Hamilton City Council and Waikato District Council as to how and where and when the future expansion of Hamilton City will occur. The Agreement addresses:

- 3.0 The Goal : being the jointly agreed outcome for the Agreement.
- 4.0 The Issues : being the drivers for the Agreement.
- 5.0 The Principles : being the accepted basis of future expansion of the City.

¹ Statistics New Zealand Subnational Population Estimates.



- 6.0 The Direction : being the areas identified and agreed.
- 7.0 The Process : being the circumstances that might trigger the adjustment of the respective boundaries of the City and District.
- 8.0 Review : being the basis of any review of the Agreement.

3.0 The Goal

The Goal of this Agreement is

"To ensure that the future expansion of Hamilton City takes place rationally in a well ordered and co-ordinated manner into the most suitably located surrounding areas in the best interests of the present and future inhabitants of the City."

In establishing this goal the two councils jointly desire to address the sustainable development future of both communities, as recognised within the Local Government Act 2002, and existing cross boundary issues within the context of the Resource Management Act 1991.

4.0 The Issues

The following issues have been specifically identified as necessitating a common and joint approach to future boundary readjustments between Hamilton City and Waikato District.

Land Use Policies: In response to growing demand the Hamilton City Council has endeavoured to reduce its land consumption by providing for intensification of its existing urban infrastructure. In particular the Proposed Hamilton City District Plan (References Version 2001) provides for smaller subdivisional sizes for residential sections, enlarged high density areas in the city, and increased opportunity for apartment dwelling. While there has been some success with this, the quantum of growth has continued to absorb greenfield land at increasing rates, diminishing both supply and the ultimately constraining the city's capacity.

Similarly the District has a wealth of high quality, versatile soils in and around the City Boundary whose use is being compromised by peri-urban development. This can generate short term reverse sensitivity issues and in the longer term additional pressure points on city networks and services, while creating a form of development which is potentially unsustainable in the long term.

Infrastructural Frameworks: Critical to the agreement is the opportunity it provides Hamilton City to plan towards accommodating growth in specified localities, and to known standards, and densities. Hamilton City Council has established a programme to consider the strategic provision of essential infrastructure including water, roading, public transport, recreation, wastewater and community facilities. Agreement on the broad direction and timing of future urban growth will enable this long term infrastructure planning to continue.

Market Certainty: One significant issue faced by both councils is the uncertainty faced in the market, regarding the future development of Hamilton. This is evidenced in the random subdivision of land on the periphery of the city for lifestyle blocks, and the

increasingly speculative acquisition of land for future residential development. Such initiatives place significant pressure on the city in the future to service these nodes and incorporate these within the City; a process that is expensive, inefficient, and generally does not result in good urban outcomes. More significantly, and more immediately it creates an unwelcome lifestyle market on some of the Waikato's best land; inflating land values, increasing resource management issues, and compromising the efficient and effective use of land.

Economic Wellbeing: Hamilton's economy is inextricably linked to that of the Waikato Region, and vice versa. As the region's capital the city provides a hub of services and employment. The city and district's economic well being relies heavily on population, and critically on providing that population with employment. Hamilton has limited long term industrial land capacity and needs to provide opportunities for industrial growth in areas where there is good access, available services, and where the effects of activity can be controlled. In addition to providing for some additional long term capacity within the city the two Councils also recognise that there is potential capacity in the Waikato District, based on land at Horotiu and along the State Highway/NIMT Railway Corridor, between Horotiu and Te Rapa.

5.0 The Principles

This Agreement returns Hamilton City and Waikato District to a co-operative approach to the exchange of land, to facilitate the future development of both the City, and peri-urban resources of the District. A similar philosophy existed during the 1970's and 1980's and worked well. The Local Government reform of 1989 while providing a medium term land bank for the city also resulted in both districts becoming increasingly insular in the treatment of their resources. As that land bank has been eroded it has provided the opportunity as well as heightened the necessity of agreeing a combined approach.

In adopting this Agreement the two Councils acknowledge the following:

"Hamilton City is virtually surrounded by highly productive farmland and in general those few areas of low productivity are, because of certain restraints, unsuitable for urban use."

"Urban expansion on to good farmland must therefore be accepted, which makes it essential that the most productive farmland be avoided for as long as possible."

".... avoid where reasonably possible, encroachment on the most productive farmland, and where not possible, to retain such farmland in fully productive use as long as possible."

These principles provide the basis for accepting that growth of the city must be enabled, but that the opportunity for growth is not unfettered and moreover that the direction and timing of growth involves both the City and the District acting co-operatively.

6.0 The Direction

Significant studies over the past 30 years have consistently identified the growth opportunities and directions for Hamilton City. This is largely limited to some expansion to the east of the present city boundary, and to the north. Earlier studies have consistently identified a greater urban area embracing Ngaruawahia. Some limited growth to the northwest has also been identified.

One key element in determining growth has been the identification and establishment of logical boundaries to expand toward. Such boundaries are rarely in themselves absolute, but they provide a sound basis for future planning. The proposed Hamilton Expressway, which is in the process of being designated by Transit NZ provides one such logical boundary. It is estimated that within the expressway between Mangaonua Gully and the Horotiu/Te Rapa Bypass (connecting the expressway to the Te Rapa Bypass - see Appendix 1.0) and encompassing approximately 1800 ha, provides for some 30 years of potential residential, industrial and commercial development (known as the Hamilton City Long Term Growth Area).

On the basis of this area the two Councils agree that:

A. The area of land, west and south of the Proposed Hamilton Expressway, between the Horotiu/Te Rapa Bypass and Morrinsville Road (SH 26) (as shown on Appendix 1.0) shall be recognised as providing for the long term growth needs of Hamilton City.

B. That the area shall be recognised as five growth cells:

R1: being the area between Morrinsville Road (SH 26) and Greenhill Road, and largely encompassing the Tainui landholdings at Ruakura (being approximately 730 ha).

The area of R1 may be expanded to incorporate a further area of land between SH26 and SH1, and the alignment of the Waikato Expressway following confirmation of the outcome of consultation to be undertaken by Waikato District Council with affected residents.

Note: The area identified within R1 for the Innovation Park (growth cells A1, A2, B1, B2 as shown in Appendix 6.0) is excluded from this Agreement. The Innovation Park can develop in accordance with its development plan and in accordance with Waikato District Plan provisions.

R2: being the area between Greenhill Road and Borman Road (being approximately 200 ha).

HT1: being an area of land roughly triangular in shape between the Waikato River, the existing City boundary along Kay Road/Horsham Downs Road, the expressway and the Horotiu/Te Rapa Bypass (being approximately 780 ha in area).

HT2: being the area on the western side of the Waikato River, between the Horotiu/Te Rapa Bypass, and the present city boundary along Ruffell Road (being approximately 290 ha).

WA: being an area on the western edge of Hamilton City bounded by Whatawhata Road and Wallace Road (being approximately 25 ha).

All as shown on Appendix 2.0, 3.0 and 4.0 respectively.

C. That the agreed purpose of the growth cells will be to provide for the full range of urban uses required to ensure the sustainable development of Hamilton City and its communities. It is noted that the principle intention of the Growth Cell HT2 is to provide for the continued expansion of the Te Rapa Industrial area, and its eventual integration with the proposed Horotiu Industrial cell within Waikato District. It is however acknowledged that not all land in area HT2 may be

suitable for industrial usage. This includes the extension of buffers to protect the Waikato River (and its tributaries) where it adjoins this area.

7.0 The Process

The transfer of any or all land will occur using the following process notwithstanding that any person may seek to pursue the legal opportunities open to them to initiate a boundary adjustment pursuant to the provision of the Local Government Act 2002.

- E. That following the designation of the Waikato Expressway (adjacent to Hamilton City) and the Te Rapa/Horotiu Bypass being confirmed any one or more of the identified growth cells shall be capable of being transferred to Hamilton City. The Councils agree that either designation or construction of the bypasses will be the trigger for land transfer.

The specific triggers for a transfer shall be:

Area HT2: Area HT2 is divided into two sub areas; HT2a being the land west of Te Rapa Road/State Highway 1 and south of the Fonterra Dairy Factory site, and Area HT2b being the balance area (see Appendix 7.0).

Area HT2a shall be transferred to Hamilton City administration following confirmation of the designation of the Ngaruawahia and Te Rapa/Horotiu Bypasses.

Area HT2b shall be transferred to Hamilton City at the same time as Area R1.

Area R1: This area shall be transferred to Hamilton City Council administration, at the time of construction of the adjacent section of the expressway, to provide for the growth of the city between its present urban boundary and the expressway.

Area R2: This area shall be transferred to Hamilton City Council administration, at the time of construction of the adjacent section of the expressway, or in 2039, whichever is later, to provide for the growth of the city between its present urban boundary and the expressway.

Area HT1: This area shall be transferred to Hamilton City Council administration in 2045 provided that the expressway adjacent to the area has been constructed.

Area WA: This area shall be capable of being transferred once Hamilton City Council is able to confirm its capacity to service this area for full urban purposes noting that the provision of service to this locality is dependant on the development of a new wastewater interceptor to service the Peacocke's area of the city.

- F. The proposed transfer dates are based on an estimated land uptake in Hamilton City. The rate shall be regularly reviewed, and the timing of transfer may be amended by mutual agreement between both parties.

- G. That the intention of the two Councils be made public and be used, where possible, to guide policy formulation and decision-making. The agreement shall guide the Waikato District Council in the administration of its Operative District Plan and the review of that plan currently underway. In particular the District

Plan should seek to recognise the long term urban intentions for the agreed growth cells, avoid any further increase in the range of non-rural activities in growth cell areas, or the further fragmentation of land below that currently provided for by Proposed Plan Change No 7 to the Operative Waikato District Plan.

In stating these intentions the Agreement fully acknowledges that the Waikato District Council is bound by its duty to administer within its statutory capacity the Resource Management act 1991, and pursue all relevant processes to give effect to that legislation.

8.0 Review

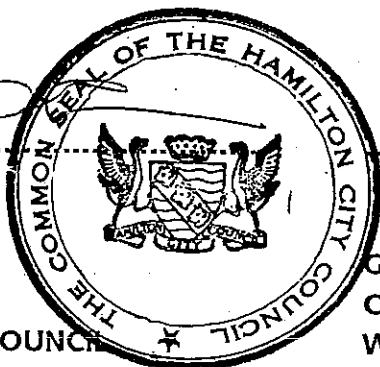
This Agreement shall be binding on the Hamilton City and Waikato District Councils, and may only be varied or revoked by the mutual agreement of both parties.

M G Redman
MAYOR OF HAMILTON CITY COUNCIL

P J Harris
MAYOR OF WAIKATO DISTRICT COUNCIL

A J Marrayatt
CHIEF EXECUTIVE
HAMILTON CITY COUNCIL

G J Ion
CHIEF EXECUTIVE
WAIKATO DISTRICT COUNCIL



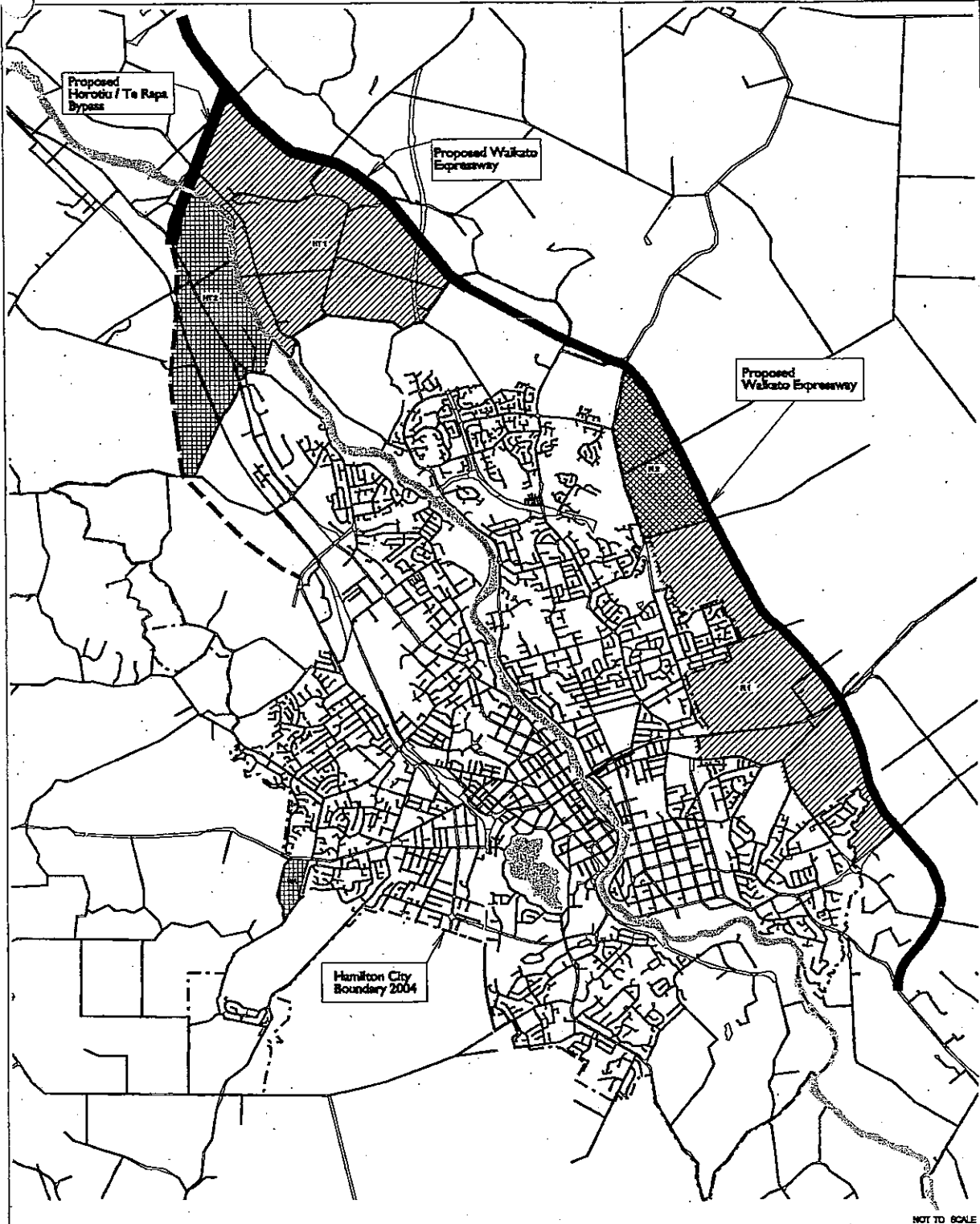
A J Marrayatt

P J Harris

23 MAR 2005

G. J. B.

Dated



NOT TO SCALE

Hamilton City Long Term Growth Area

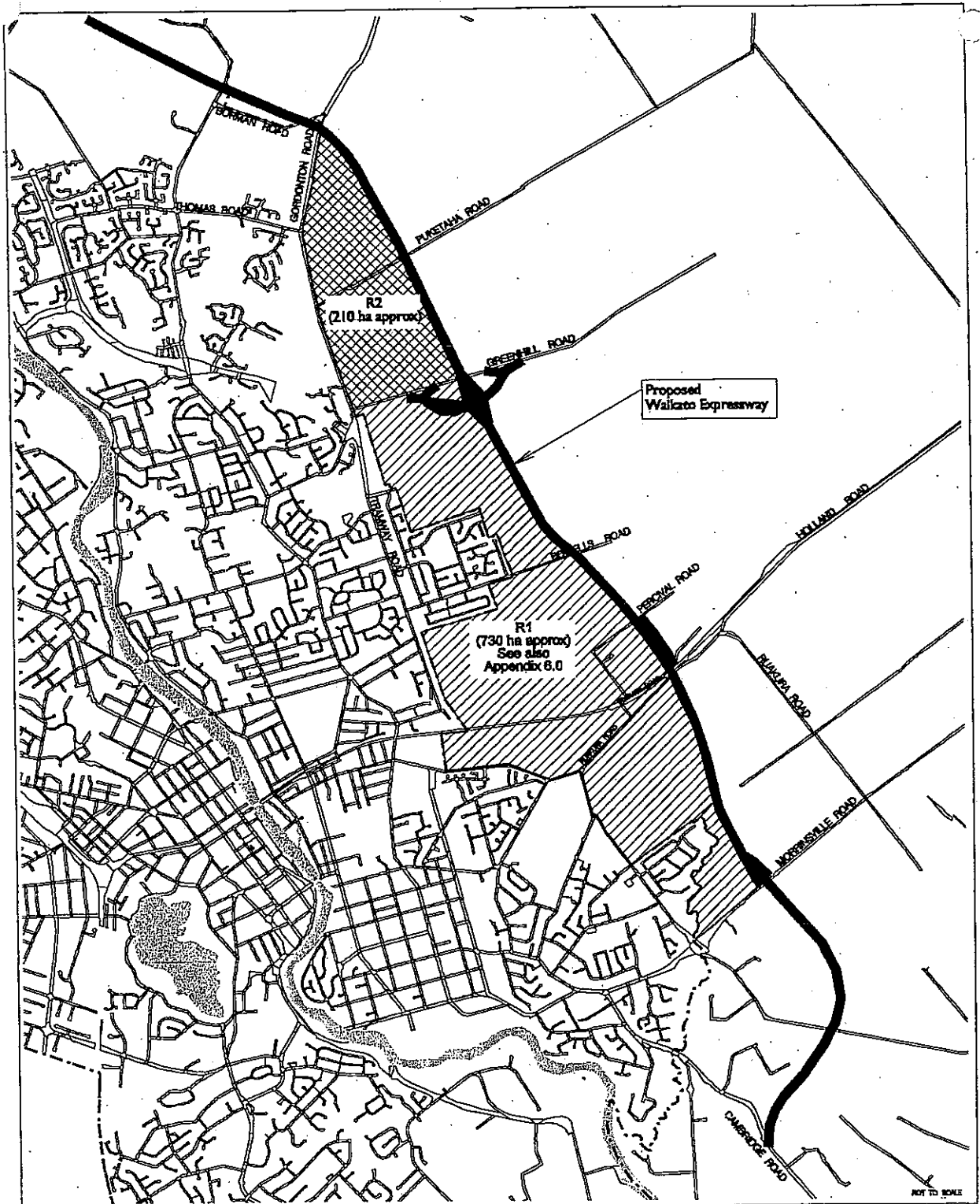
Appendix 1.0



DESIGN SERVICES

Hamilton City Council

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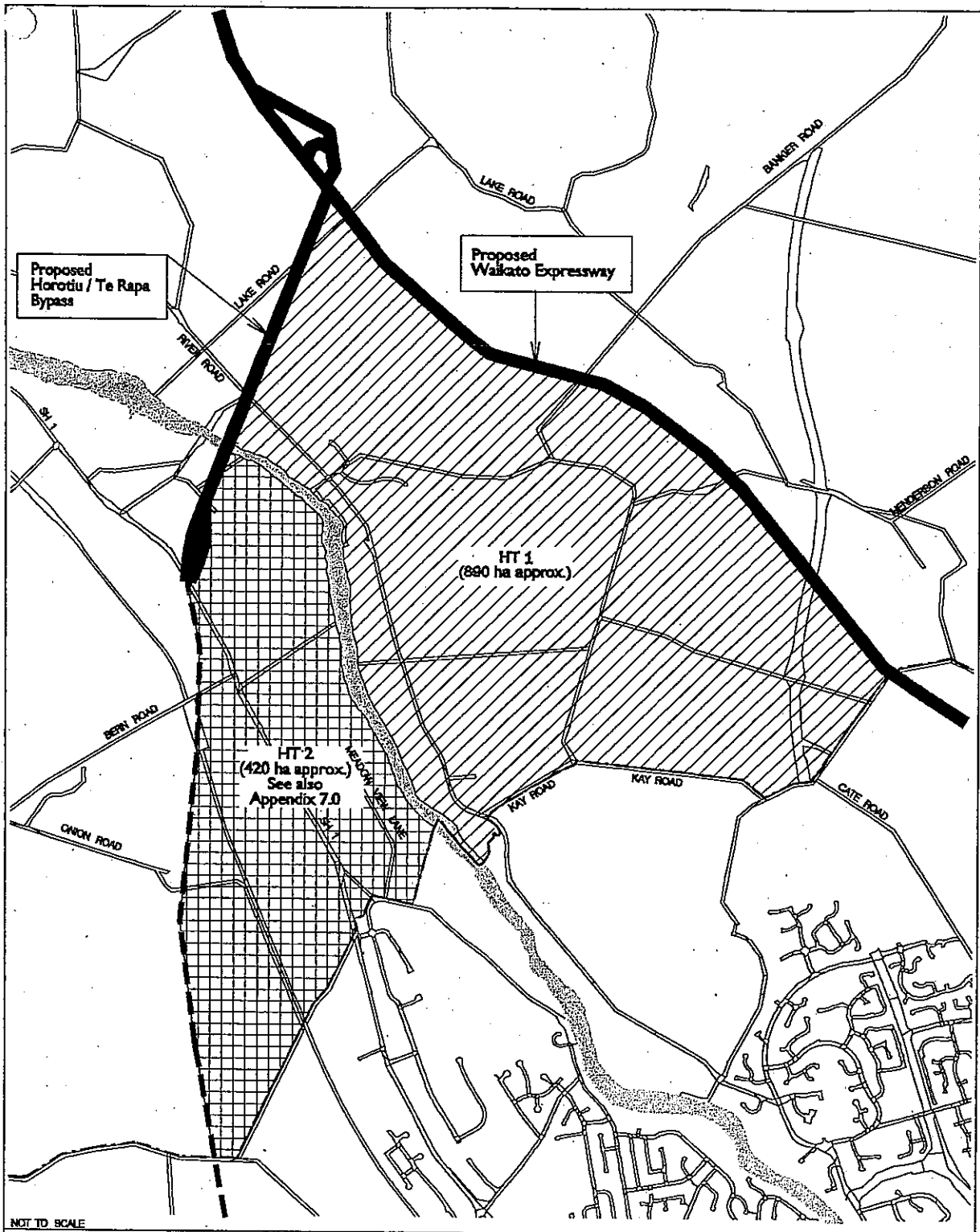
Hamilton City Long Term Growth Area

Appendix 2.0



Hamilton City Council

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NOT TO SCALE

Hamilton City Long Term Growth Area

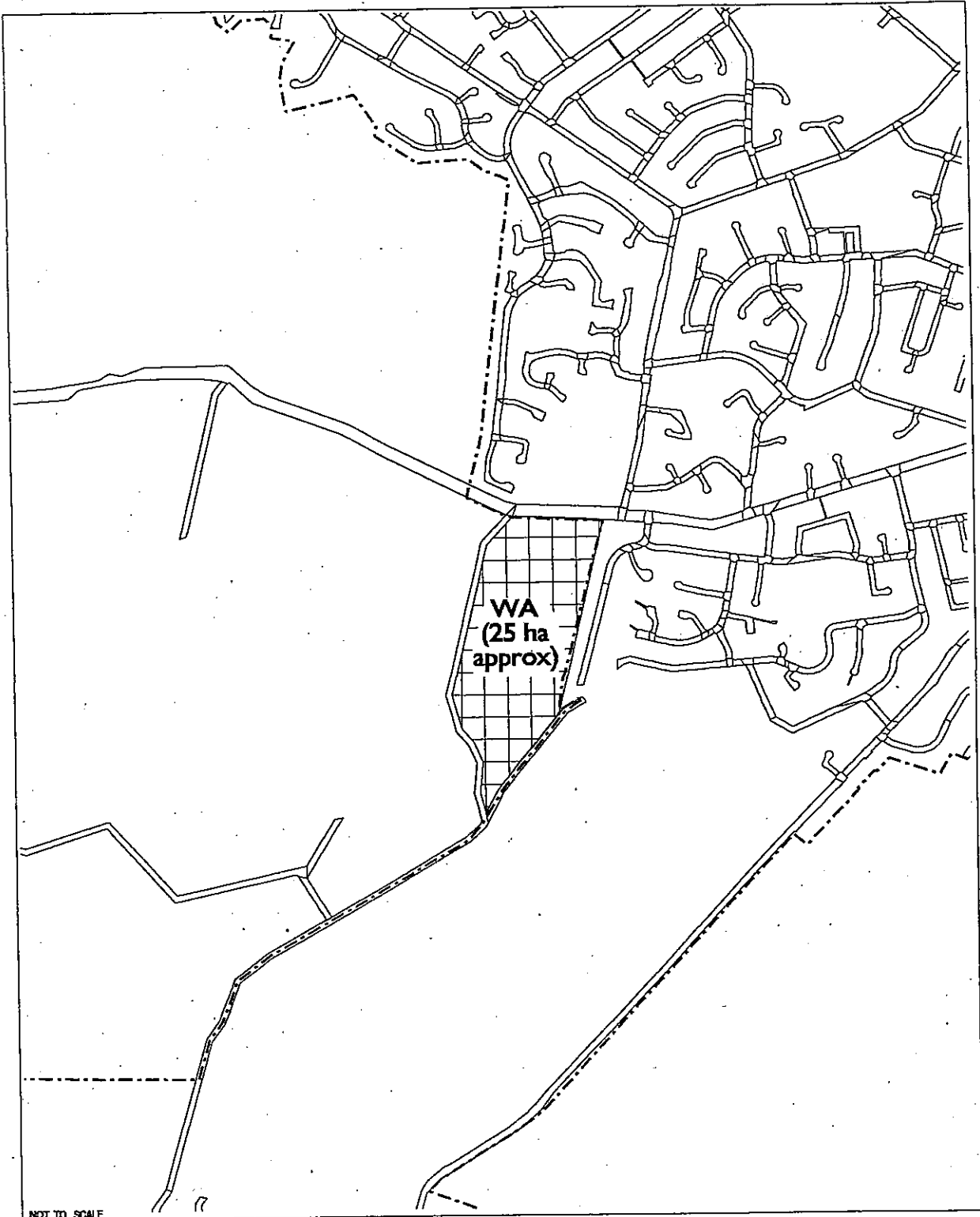
Appendix 3.0



DESIGN SERVICES

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Hamilton City Long Term Growth Area

Appendix 4.0



DESIGN SERVICES

Hamilton City Council

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Below it, there are several handwritten initials and signatures, including 'PH' and 'JF'.

Appendix 5.0

Hamilton City Projected Residential Uptake December 2003

1. Residential Uptake for Hamilton City is predicted on a number of variables.
 - i) Annual average housing starts at 800 per annum.
 - ii) Infill demand of around 20% of total new stock falling to 15% in 2040 and 10% in 2060.
 - iii) Average occupancy of 2.7 persons per dwelling
 - iv) Average dwelling density of 12 dwellings per hectare.
 - v) Average annual population growth of 1.9%.
 - vi) No allowance is made for additional development at Temple View.
2. The rate of uptake and demand will be altered by any change to one or more of the above variables.
3. The land base for the uptake projection is conservative. A wider range of alternative land uses, particularly industrial will accelerate overall demand by reducing overall supply. Similarly lifestyle development in the Future Growth areas will further reduce capacity once land becomes urban.
4. The scenario outlined below is integrated. The delay or acceleration of any one growth area or cell will impact on the rate of uptake in other cells. The model also endeavours to provide a range of market choice, to avoid single cell dependency which will not allow the market to act efficiently.
5. The December 2003 projections envisage:
 - A. Continued development of Rototuna until 2027. Short-term demand will reach 70% of total new housing demand, which should reduce as other growth areas are made available.
 - B. Commencement of development in the Rotokauri Growth Cell in 2006. This cell is predicted to service different market to Rototuna and will remain a steady but modest provider of land for the city. There is a possibility, based on current interest, that the area could be more rapidly depleted if strong industrial demand continues.
 - C. Peacockes is likely to be required to service residential demand in 2016 and will complement, and compete with Rototuna for the mid range market demand. This cell is likely to sustain development until 2050, under the current scenario.
 - D. The R1 cell is likely to come into the market in around 2025 based on strong demand generated by the expressway, ease of servicing, and growth in the Ruakura/University/Innovation Park node. This cell is likely to be exhausted around 2063.
 - E. Cell R2, is very small, and likely to develop quickly on the back of R1, and as a result of both Peacocke and Rotokauri becoming exhausted around the same time. This cell will commence in approximately 2044 and be completed in 2056.

HT1 is the longest term residential growth cell for the city and not predicted to commence till around 2051. Its completion is well beyond the planning horizon.

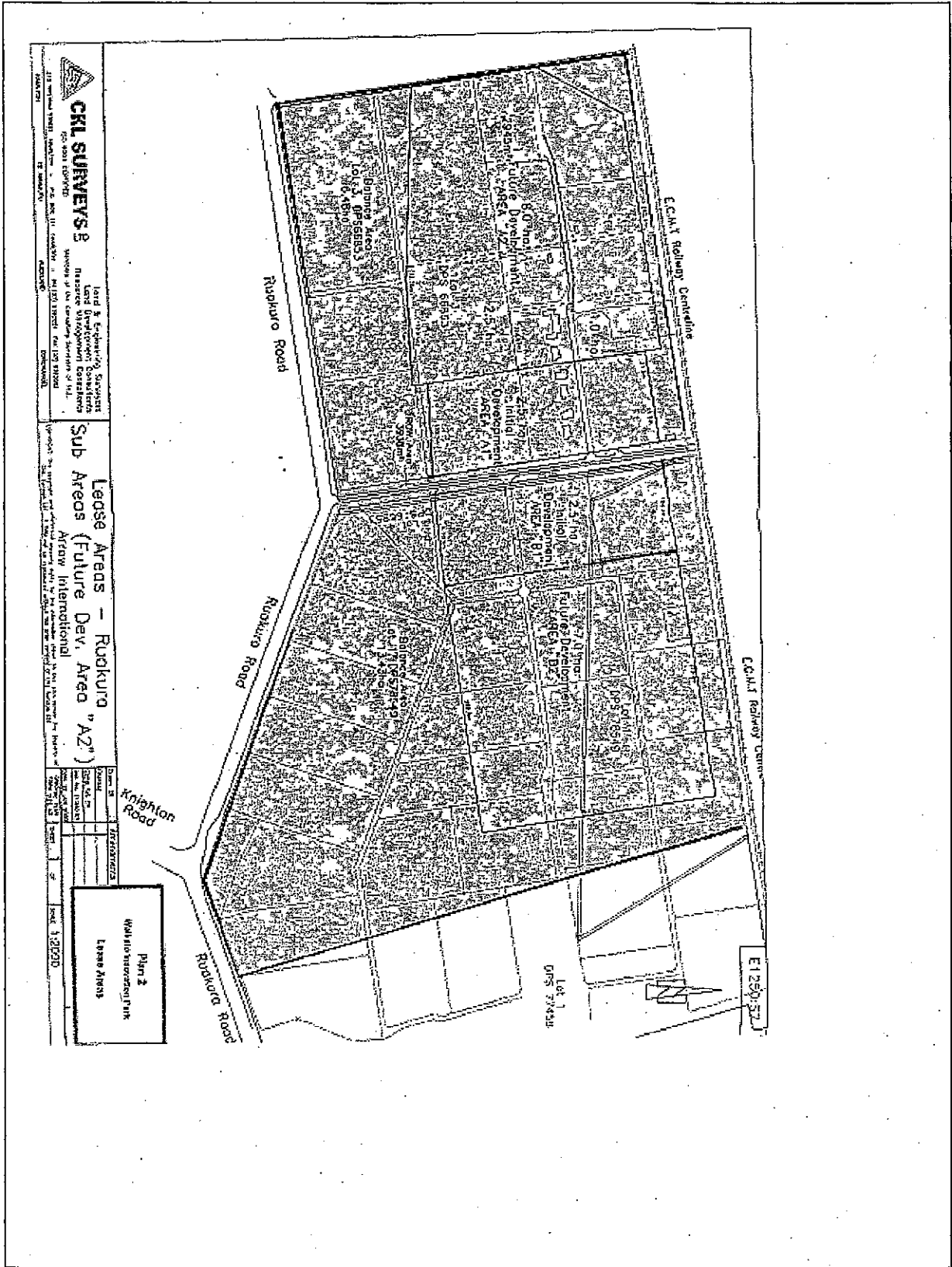
The data nominated in the agreement provides for land to be transferred to Hamilton City approximately five years before the anticipated demand data for new development.

It should be noted that the above should not be taken as an absolute land use prediction. The variables employed are significant and subject to pressures over which local government has very limited influence. Similarly the horizon is extremely long. Accordingly these dates and rates of projected uptake rates should be used very cautiously.

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Appendix 6.0

Strategic Agreement on the Future Urban Expansion of Hamilton City

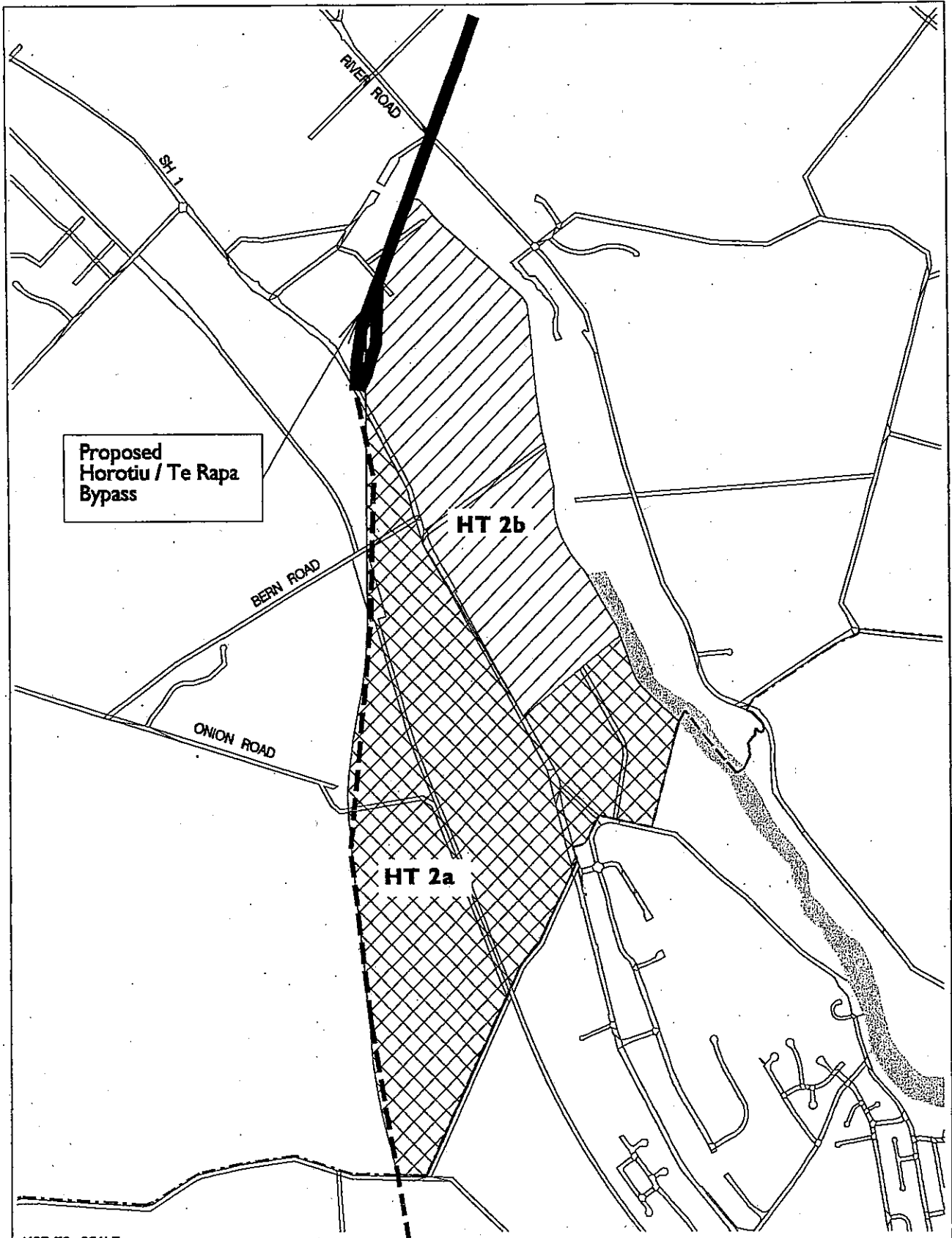


CKL SURVEYS & ENGINEERING
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 Fax: 905.571.1111
 Website: www.cklsurveys.com

Lease Areas - Rucklura Area A2
 Future Development Area
 Arrow International

Scale: 1:20,000

Handwritten signatures and initials.



Proposed
Horotiu / Te Rapa
Bypass

HT 2b

HT 2a

NOT TO SCALE



Area HT 2 (Detailed) Appendix 7.0

DESIGN SERVICES

Hamilton City Council

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