

If calling, please ask for  
Gavin Ion



7 October 2019

Hon David Parker  
Minister for the Environment  
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Dear Minister Parker

## **REQUEST FOR EXTENSION OF TIME PURSUANT TO CLAUSE 10A OF THE RESOURCE MANAGEMENT ACT 1991**

I am writing to you seeking an extension of time for making a decision on the Proposed Waikato District Plan, pursuant to clause 10A of Schedule 1 of the Resource Management Act 1991 ("the Act").

Waikato District Council ("Council") is in the process of undertaking a comprehensive District Plan review of the Waikato District Plan (2013) and the Franklin District Plan (2000) to form one integrated District Plan. It will give effect to various National Policy Statement requirements.

Stage 1 of the Proposed District Plan was publicly notified on 18 July 2018 and hearings began last week. Council is also preparing to notify Stage 2 in early 2020, which will introduce new district-wide planning provisions for Natural Hazards; a draft of this material is currently out for consultation.

The Act sets an initial two-year timeframe for issuing decisions on submissions, and this timeframe expires on 18 July 2020. We are seeking an extension of this timeframe by 14 months, to 18 September 2021. This extension represents the time required to complete the hearings on both Stages 1 and 2, and to draft and release a single, integrated decision.

Consultation has resulted in the receipt of more than 21,000 submission points. It has taken a considerable amount of time to collate and summarise these submissions. The Council wants to ensure that all members of our community have the opportunity to make their views known, and under the initial timeframe we only have nine months remaining to hear submissions, and deliberate and draft a decision. The time remaining under the initial timeframe does not allow for an integrated decision on Stages 1 and 2.

While delays of any kind are not ideal, given the heightened interest from our community and the timing of Stage 2, we hold the strong belief that a timeframe extension is needed in order to produce a single, integrated and holistic district plan for the Waikato District.

We remain engaged with Ministry for the Environment officials, and should the extension be approved, we will ensure regular communication around our progress regarding the new deadline. We will be doing our very best to work efficiently and release decisions ahead of 18 September 2021.

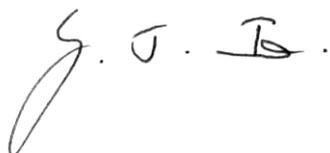
Please find three attachments to this letter outlining the planning process to date, the options we've considered and our views on the criteria in clause 10A(3) of Schedule 1.

As an aside, I'd like to highlight our commitment to continue working with Ministry for the Environment officials on resource management issues, including providing feedback on the national direction programme, where we have had direct discussions about Waikato District examples. We are also looking forward to inputting into the comprehensive RM system reform.

If you require any further information or clarification, please do not hesitate to contact me.

I look forward to your response.

Yours faithfully

A handwritten signature in black ink, appearing to read 'G. J. I.', with a large, stylized flourish on the left side.

Gavin Ion  
**CHIEF EXECUTIVE**

# Attachment I: Planning Process to Date

## Policy Development

- As a result of the 2010 local government reorganisation of the Auckland Region, Council currently administers one district plan made up of two distinct sections - the Waikato section, incorporating the operative Waikato District Plan (2013), and the Franklin section incorporating the relevant sections of the former Franklin District Plan (2000).
- In 2014, Council resolved to undertake a full review of the district plan (Waikato and Franklin sections) to produce one single District Plan for the Waikato District.
- There were significant delays in obtaining flood modelling results needed to give effect to the Waikato Regional Policy Statement.
- In February 2018, Council resolved to stage the District Plan review to ensure that the natural hazards chapter (Stage 2) did not delay Council in making progress with all other provisions.

## Stage I (all provisions except natural hazards and the effects of climate change).

- Stage I was publicly notified on 18 July 2018.
- The duration of the submission period was doubled to enable the public sufficient time to lodge submissions, given this was a significant review with substantial change in policy direction for some areas.
- Council received 990 submissions which cover a number of highly complex topics.
- As a smaller Council with limited resources to summarise the submissions, it took 4 months to summarise the 10,000 submission points received and audit them for accuracy.
- Due to the release of other local area planning documents (known as 'Blueprints') for consultation, Council sequenced the notification of the summary of submissions to avoid confusion for the public.
- Council initially called for further submissions from 29 April 2019 and doubled the duration for receiving further submissions to 27 May 2019, again to enable the public sufficient time to lodge submissions.
- Council then encountered several technical issues, resulting in some submissions not being available on the Council's website. Additionally, a small number of errors were identified in the summary of submissions.
- Consequently, Council notified a revised summary of submissions on 18 June 2019, and for fairness doubled the duration for receiving further submissions until 16 July 2019.

## Stage 2 natural hazards and the effects of climate change

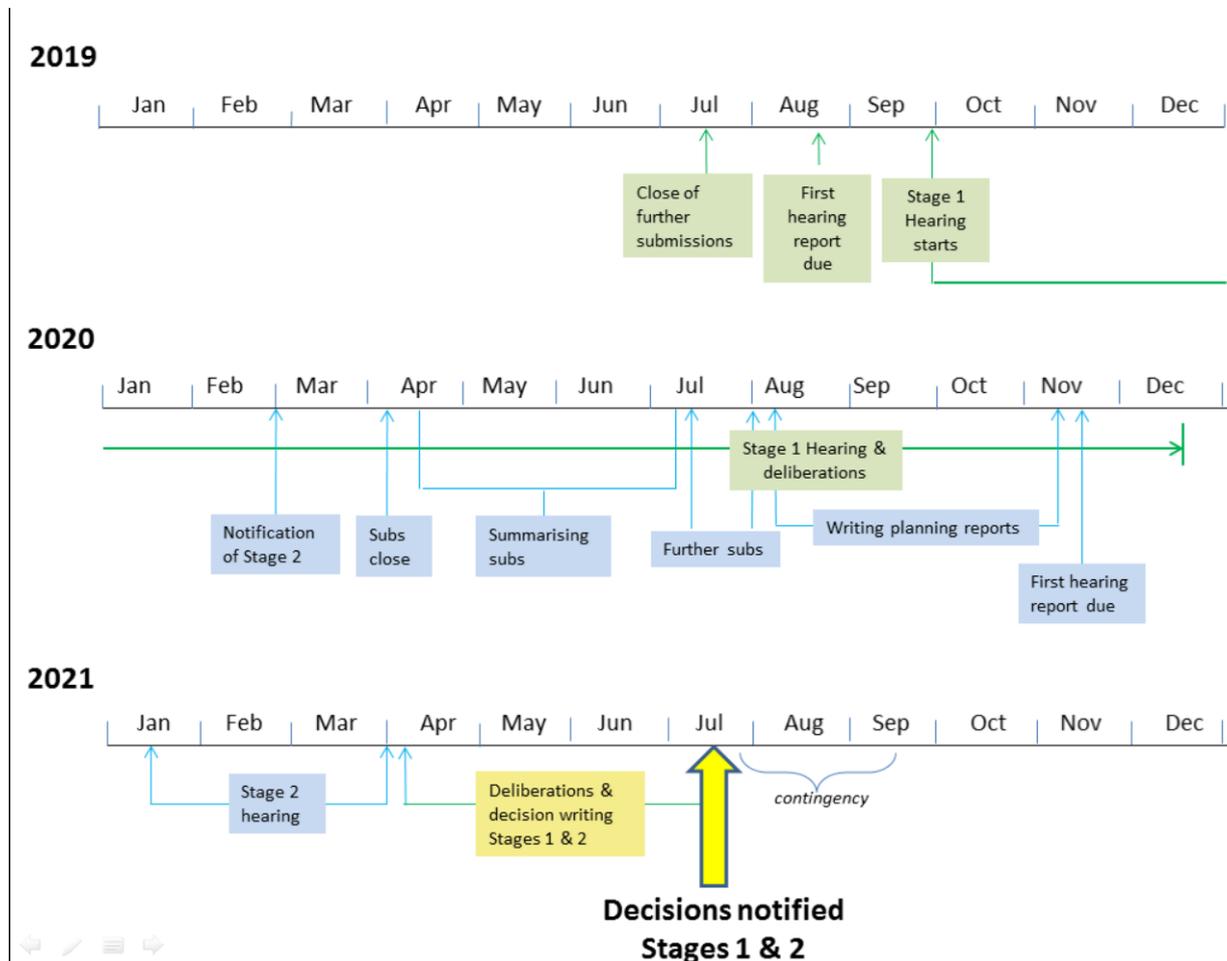
- Council intends to undertake meaningful community engagement from September 2019 on a draft of the Stage 2 (Hazards) chapter.
- Council intends to publicly notify Stage 2 in early 2020, following local body elections in October 2019 and subsequent councillor induction period.

## Hearing and decision-making

- Council has appointed a pool of seven Commissioners: Phil Mitchell (Chair), Paul Cooney (Deputy Chair), Dynes Fulton, Linda Te Ao, Weo Magg, and Crs Janet Gibb and Jan Sedgwick.
- The hearings panel has indicated a preference that each hearing topic follows a sequence of one week for pre-reading, two weeks for sitting, and one week for deliberating.
- Following this sequence, it is anticipated that, just for Stage I, the panel will be sitting for 32 weeks spread over 63 weeks.
- Council will be contracting an independent decision writer to assist the panel in drafting the decisions as the hearings progress.

## Attachment 2: Options for timeframes to complete hearings and make decisions

### Option 1: 14-month extension for Stage 1 to allow Stage 2 integration (preferred option)



Advantages of Option 1	Disadvantages of Option 1
<ul style="list-style-type: none"> <li>• Allows a single, integrated decision that includes both Stages 1 and 2</li> <li>• Allows fundamental land constraints (hazards) to be considered before issuing decisions on Stage 1 matters, such as rezoning requests.</li> <li>• A single appeal period.</li> <li>• Spreads pressure and workload for submitters, the hearings panel and council planners.</li> <li>• Allows Council to complete the current review of its Growth Strategy prior to considering the 300+ re-zoning requests.</li> </ul>	<ul style="list-style-type: none"> <li>• Public criticism and reputational damage due to delayed decisions at a time when there is a focus on the Hamilton to Auckland corridor.</li> <li>• Specific public criticism from the Tuakau community, given the clear indication given by Council at the time it withdrew the Tuakau Plan Change that the District Plan Review would proceed quickly.</li> </ul>

**Option 2: Seven-month extension for Stage 1, and Stage 1 decisions issued ahead of Stage 2**

Advantages of Option 2	Disadvantages of Option 2
<ul style="list-style-type: none"> <li>● Spread pressure and workload for submitters, the hearing panel and council planners.</li> <li>● Perceived reduction in delays, if Stage 1 decisions are decoupled from Stage 2 and do not have to wait for Stage 2 to 'catch up'.</li> <li>● Potentially less public criticism and reputational damage than for Option 1.</li> <li>● Allows Council to complete the current review of its Growth Strategy prior to considering the 300+ re-zoning requests.</li> </ul>	<ul style="list-style-type: none"> <li>● As with Option 1, public criticism and reputational damage due to delay.</li> <li>● Lack of integration between Stage 1 and Stage 2, resulting in potentially inferior outcomes for the community.</li> <li>● Does not allow an integrated, comprehensive decision on both Stages 1 and 2 (not sound resource management practice).</li> <li>● Risks a poor outcome unless Stage 2-related submissions on Stage 1 were 'held over' to ensure that these were informed by Stage 2.</li> <li>● Different appeal periods running for Stages 1 and 2.</li> <li>● Less than optimum planning outcomes are likely to result in an increase in appeals to the Environment Court, thus more costs to Council and the community.</li> </ul>

**Option 3: No extension of time for Stage 1 and Stage 1 decisions issued ahead of Stage 2 (least preferred option)**

- This option would fast-track the hearings process for Stage 1 **and** delay consideration of matters affected by Stage 2 information (including rezoning requests) until Stage 2 hearings, so that decisions on Stage 1 are made by 18 July 2020.
- Stage 2 would aim for its own 2 year timeframe independent of Stage 1, which would mean that decisions on Stage 2 could be made by February 2022.

Advantages of Option 3	Disadvantages of Option 3
<ul style="list-style-type: none"> <li>● There is certainty on Stage 1 provisions of the District Plan soon.</li> <li>● Least risk of public criticism and reputational damage due to delay.</li> </ul>	<ul style="list-style-type: none"> <li>● Risks a poor outcome unless Stage 2-related submissions on Stage 1 were 'held over' to ensure that these were informed by Stage 2.</li> <li>● Less than optimum planning outcomes are likely to result in an increase in appeals to the Environment Court, thus more costs to Council and the community.</li> <li>● Lack of integration between Stage 1 and Stage 2.</li> <li>● Higher workload for Council planners, submitters and their representatives, which may result in sub-standard evidence and Section 42A reports, resulting in less than optimum outcomes for the community.</li> <li>● Higher costs, as Council would need to find more consultants to prepare planners reports.</li> <li>● Risk that hearings and decisions will be rushed, resulting in potential prejudice and unfairness to submitters (Section 39 of the RMA).</li> <li>● Would require hearings panels to run in parallel, risking inconsistent decision making. Additional commissioners may be required to support such a change in process, resulting in further costs and delays.</li> </ul>

## Attachment 3: Affected Persons and Interests of Communities

Pursuant to clause 10A(3) of Schedule 1 of the Act, before applying for an extension, Council must take into account:

- (a) The interests of any person who, in its opinion, may be directly affected by an extension; and*
  - (b) The interests of the community in achieving adequate assessment of the effects of these proposed plans; and*
  - (c) Its duty under Section 21 to avoid unreasonable delay.*
- In relation to clause (a) above, Council has taken into account the interests of any person, who, in its opinion, may be directly affected by an extension. All persons who submitted on the Proposed District Plan may be directly affected by the extension of time sought. However, Council does not consider any individual submitters to be more affected than any other submitters. This issue affects the whole of the district.
  - Council has taken into account all persons who submitted on the Proposed District Plan and whether any person is considered to be directly affected by this extension of time sought.
  - Council has, in particular, taken into account the interests of the communities who have worked with Council to develop the Proposed District Plan, particularly the townships in the northern part of the district (i.e. Tuakau and Pokeno), where growth has occurred at a faster rate than the Franklin District Plan anticipated, and there is a strong need for the further re-zoning of land in order to meet our obligations under the National Policy Statement for Urban Development Capacity.
  - In relation to clause (b), Council has taken into account the interests of the community in achieving adequate assessment of the effects of the proposed plan. It is considered that the interests of the community are better served by a single integrated holistic decision resulting in a single comprehensive district plan document and an extension will allow this. In addition, an extension will allow consideration of the Stage 2 provisions which address natural hazards and climate change, and thus enable more effective consideration of the effects of the submissions and the proposed provisions.
  - In relation to clause (c), Council has taken into account its duty to avoid unreasonable delay under section 21. Council has considered the minimum extension of time required to enable it to meet its functions under section 31 of the RMA. A 14-month extension of time enables Council to finalise the review of its Growth Strategy and consider natural hazards information, enabling an integrated, comprehensive approach to assist the decision-makers in considering 300+ rezoning submissions.
  - While any delay may not be viewed favourably by some in the community, it is imperative that it be a careful and well-considered decision making process.
  - Growth needs to be in appropriate locations that do not increase the risk of natural hazards and climate change to people and property.
  - Council considers the most effective approach is to make decisions on both stages together to ensure a complete review of both current planning documents.
  - Council is confident that these revised timeframes are appropriate and will be met.