

**BEFORE THE HEARING PANEL ON PROPOSED PRIVATE PLAN CHANGE 13 TO THE
OPERATIVE HAMILTON CITY DISTRICT PLAN**

IN THE MATTER of the Resource Management Act 1991 (the Act)

AND

IN THE MATTER of proposed Private Plan Change 13 to the Hamilton City
District Plan

Supplementary legal submissions on behalf of the Waikato Racing Club
Incorporated

Dated: 22 August 2023

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MAY IT PLEASE THE HEARING PANEL

INTRODUCTION

1. These submissions provide an initial response to the submissions filed on behalf of Chartwell Investments Limited.¹
2. In his submissions, Mr Welsh states, essentially, that because the Te Rapa Racecourse is currently zoned Major Facilities Zone, it is not a “relevant residential zone” for the purposes of the Resource Management Act 1991 (“RMA”) provisions which require implementation of the new Medium Density Residential Standards. He makes various comments criticising the draft provisions and section 32/32AA evaluation prepared to date.
3. The following points are relevant to provide context for the way in which the Plan Change has evolved:
 - (a) The Resource Management (Housing Enabling) Amendment Act came into force at a time where the Waikato Racing Club Incorporated technical team was well advanced in prepared PPC13 for lodgement.
 - (b) Council staff requested the WRCI team to prepare PPC13 to implement the MDRS in the same manner which it intended to for its proposed Plan Change 12 (“PC12”).
 - (c) It was expected that PC12 would be heard prior to PPC13 and that the decisions on both plan changes would be made at a similar time, requiring the outcome of the two processes to be integrated.
4. The issue highlighted by Mr Welsh is that Clause 25(4A) refers to section 77G(1), and section 77G(1) in turn refers to a “relevant residential zone”.

¹ The Precinct Plan for PPC13 is referred to throughout as PPC13 Precinct; or Precinct Plan, where the plan depicting the structure of the precinct is relevant.

While that may be correct, it was made clear to the WRCI that PPC13 should implement the density standards proposed for PC12 ostensibly for the purposes of satisfying clause 25(4A). On its face, the clause could be read in that way.

5. This is not material to the Hearing Panel's consideration of PPC13. The point made by Mr Welsh does not undermine the substantive components of the assessment of PPC13 against clause 32/32AA. That is emphasised by the directives in the NPS-UD regarding housing density and PPC13 must give effect to the NPS-UD. Mr Olliver's evidence is that it does.
6. In my submission PPC13 has been prepared to give effect to the NPS-UD and the ODP includes site specific "Medium Density Residential" provisions.
7. Any "flaw" in the section 32/32AA evaluations prepared to date can be cured by the Hearing Panel decision and its section 32AA evaluation. In that regard, PPC13 should be assessed on its merits.
8. Regardless of the criticism from Mr Welsh, this has no relevance to the merits or otherwise of the relief sought by Chartwell Investments Limited (or Takanini Rentors and Ecostream). None of the submissions challenged the density standards of PPC13. The key concerns are reverse sensitivity and the effects of PPC13 on the future development of the adjacent Industrial Zone.
9. The question for the Hearing Panel is whether the proposed residential development creates the effects that the submitters argue it does. The evidence for the WRCI is that this is not made out and that the 60m setback is unwarranted and unnecessary. To impose such a setback would be contrary to the NPS-UD. The question of a no-complaints covenant is a matter to be determined through the hearing. The WRCI witnesses do not support this as set out in the evidence.

Edits to opening legal submissions

10. Counsel intends to address any proposed edits to opening legal submissions arising from the matters discussed above at the opening of the Hearing.

A handwritten signature in blue ink, appearing to read "m mackintosh".

M Mackintosh

Counsel for the Waikato Racing Club Incorporated

22 August 2023