

## Appendix 2

### Private Plan Change 13; Section 32AA Further Evaluation

Section 32AA of the RMA requires a further evaluation for any changes that have been made to, or are proposed for, a proposal since the evaluation report for the proposal was completed. The further evaluation must be undertaken in accordance with section 32(1) to (4) and at a level of detail that corresponds to the scale and significance of the changes.

The first s32 evaluation report was included in the PC13 request for plan change dated 22 September 2022.

Attachment 2 to the evidence of John Olliver dated 26 July 2023 was a further evaluation under s32AA addressing the proposed changes to the PC13 plan provisions that were recommended in that evidence.

This further evaluation under s32AA builds on those previous evaluations. It evaluates the following matters;

- Further changes to the plan provisions recommended in John Olliver's rebuttal evidence dated 17 August 2023.
- Further changes to the plan change provisions addressed during the hearing from 23 to 25 August 2023 and in subsequent discussions with HCC and the submitters.
- It also evaluates the inclusion of the Medium Density Residential Standards (MDRS) (as implemented through HCC's PC12) in PC13. As set out in the closing legal submissions PC13 was lodged after HCC had notified PC12 as its Intensification Planning Instrument (IPI). PC13 drew on the PC12 document when developing the plan provisions.

This evaluation does not include minor wording changes to improve clarity or consistency, or any consequential amendments, as their effects are not measurable.

## 1.0 SECTION 32(1)(a) FURTHER EVALUATION

Section 32(1)(a)	
Examine the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of this Act	
Further Changes	Assessment
<p>PC13 includes Objective 4.2.15 which is;</p> <p><i>A well-functioning urban environment that enables all people and communities to provide for their social, economic and cultural wellbeing, and for their health and safety, now and into the future.</i></p> <p><i>The Te Rapa Racecourse Medium-Density Residential Precinct provides for a variety of housing types and sizes that respond to;</i></p> <ol style="list-style-type: none"> <li><i>Housing needs and demand; and</i></li> <li><i>The neighbourhood's planned urban built character, including up to 5-storey buildings.</i></li> </ol>	<p>Objective 4.2.15 is based on the wording of MDRS Objectives 1 and 2 in clause 6 of Schedule 3A of the RMA, and Objectives 4.1.3.2 and 4.3.2.2 of PC12. It is the most appropriate way to achieve the purpose of the Act because;</p> <ul style="list-style-type: none"> <li>The wording is consistent with the high-level direction of Objective 1 and Policy 1 of the NPS-UD. The NPS-UD is the highest-level planning instrument for PC13 and is directly relevant to the urban development enabled by PC13. There is no need to consider Part 2 of the Act as the NPS-UD represents its purpose in terms of urban development. The NPS-UD must be given effect to through all plan changes to the ODP in accordance with s75 (3) (a) of the RMA, not just through the IPI. Objective 4.2.15 gives effect to the NPS-UD in PC13.</li> <li>The MDRS are a set of plan provisions that have been included in the RMA to implement the NPS-UD. The MDRS have been adapted to the Hamilton urban environment through PC12 which has been notified and has legal effect through its objectives and policies. Therefore PC 13 has taken into account the objectives and policies of PC12 and is consistent with them. This represents an integrated approach to achievement of the purposes of the NPS-UD, rather than a piecemeal approach which would occur if PC13 was advanced as a completely stand-alone plan change. Therefore, it is most appropriate that PC13 includes Objective 4.2.15 that adopts wording consistent with PC12.</li> <li>It is efficient and effective for PC13 to include an objective that effectively matches PC12. That provides a consistent and clear approach to the implementation of the NPS-UD through the ODP and minimises the need for subsequent changes or variations to integrate PC13 with PC12.</li> </ul>

## 2.0 SECTION 32(1)(b) FURTHER EVALUATION

Section 32(1)(b) requires examination whether the provisions in the proposal are the most appropriate way to achieve the objectives by:

- (i) Identifying other reasonably practicable options for achieving the objectives; and
- (ii) Assessing the efficiency and effectiveness of the provisions in achieving the objectives; and
- (iii) Summarising the reasons for deciding on the provisions

Further Changes	Other reasonably practicable options	Efficiency and effectiveness (including costs and benefits and risks of acting or not acting)	Reasons for deciding on the provisions
1.Include the MDRS as modified by PC12 in PC13.	Do not include the MDRS and instead prepare development standards specifically for the site.	<p><b>Benefits</b></p> <p><u>Environmental</u></p> <ul style="list-style-type: none"> <li>The more intensive urban form enabled by the MDRS supports reductions in greenhouse gas emissions.</li> <li>The PC12 modifications to the MDRS take into account Te Ture Whaimana and the associated three waters impacts on the Waikato River.</li> </ul> <p><u>Economic</u></p> <ul style="list-style-type: none"> <li>The higher density will provide an economic opportunity for more efficient residential land use including more efficient use of infrastructure.</li> <li>Higher density adjacent to commercial centres provides support for those centres through a larger population nearby.</li> <li>A higher density of development increases housing choice and supply within the city therefore increasing competition in the housing and land development market.</li> <li>There is a lower economic cost to the PC13 applicant by adopting standards that are part of a national directive, and adapted to the Hamilton situation by PC12, rather than preparing their own bespoke plan provisions.</li> <li>There is a lower economic cost to the applicant and HCC by</li> </ul>	The MDRS, including PC12 provisions, give effect to the higher order NPS-UD and Te Ture Whaimana, and it is efficient and effective to include them in PC13. This avoids the need for duplication of effort and additional time and cost in developing bespoke provisions.

Further Changes	Other reasonably practicable options	Efficiency and effectiveness (including costs and benefits and risks of acting or not acting)	Reasons for deciding on the provisions
		<p>integrating PC12 and PC13 as much as possible, minimising the time and cost involved in initiating a separate variation to the ODP at a later date to integrate the two.</p> <p><u>Social</u></p> <ul style="list-style-type: none"> <li>• The higher density may provide more affordable housing options which has a social outcome of increased home ownership.</li> </ul> <p><u>Cultural</u></p> <ul style="list-style-type: none"> <li>• There is an identifiable cultural benefit by adopting the PC12 MDRS provisions as they have been designed to protect and restore the Waikato River, in accordance with Te Ture Whaimana.</li> </ul> <p><b>Costs</b></p> <p><u>Environmental</u></p> <ul style="list-style-type: none"> <li>• There is a potential environmental cost of higher buildings closer to boundaries of existing residential properties, by reducing access to sunlight and daylight.</li> </ul> <p><u>Economic</u></p> <ul style="list-style-type: none"> <li>• There are no economic costs.</li> </ul> <p><u>Social</u></p> <ul style="list-style-type: none"> <li>• There may be a social cost associated with a perceived loss of amenity for some existing residents.</li> </ul> <p><u>Cultural</u></p> <ul style="list-style-type: none"> <li>• There are no cultural costs.</li> </ul>	

Further Changes	Other reasonably practicable options	Efficiency and effectiveness (including costs and benefits and risks of acting or not acting)	Reasons for deciding on the provisions
		<p><b>Risks of Acting or Not Acting</b></p> <p>The national directives of the NPS-UD and the MDRS, and the modification of these matters through PC12, provide sufficient information to act on. There would be a legal risk of not acting, by not giving effect to the NPS-UD.</p>	
<p>2. Include rules requiring a noise barrier to be built within the open space buffer adjacent to Industrial zoned land (Rule 4.8.12 f ii) together with consequential amendments to 1.2.2.24 Information requirements and 1.3.3P Assessment Criteria.</p>	<p>Do not include rules requiring a noise barrier.</p>	<p><b>Benefits</b></p> <p><u>Environmental</u></p> <ul style="list-style-type: none"> <li>The noise barrier supplements other rules including the 30m setback from Industrial zone boundaries and acoustic treatment of noise sensitive activities within the Noise Sensitive Area (NSA), thereby assisting in mitigating potential reverse sensitivity effects on industrial neighbours.</li> </ul> <p><u>Economic</u></p> <ul style="list-style-type: none"> <li>There may be some economic benefits for industrial neighbours by further reducing the risk of reverse sensitivity effects.</li> </ul> <p><u>Social</u></p> <ul style="list-style-type: none"> <li>There are no identified social benefits.</li> </ul> <p><u>Cultural</u></p> <ul style="list-style-type: none"> <li>There are no identified cultural benefits.</li> </ul> <p><b>Costs</b></p> <p><u>Environmental</u></p> <ul style="list-style-type: none"> <li>There are no identifiable environmental costs.</li> </ul> <p><u>Economic</u></p>	<p>The inclusion of a rule requiring a noise barrier is an efficient and effective means of further mitigating the risk of reverse sensitivity effects on neighbouring industries, in combination with other methods.</p>

Further Changes	Other reasonably practicable options	Efficiency and effectiveness (including costs and benefits and risks of acting or not acting)	Reasons for deciding on the provisions
		<ul style="list-style-type: none"> <li>There will be an economic cost in building the noise barrier/bund. It will be able to be built more efficiently and cost-effectively if it is contained entirely within the open space buffer as that will avoid the need to negotiate with multiple adjoining landowners if it was to be built on the boundary. Allowing flexibility for its design as a wall and/or a bund will also be efficient as it will allow the developer to take into account the overall earthworks planning for the site which may raise ground levels and allow for surplus material to be used for a bund.</li> </ul> <p><u>Social</u></p> <ul style="list-style-type: none"> <li>There are no identifiable social costs.</li> </ul> <p><u>Cultural</u></p> <ul style="list-style-type: none"> <li>There are no identifiable cultural costs.</li> </ul> <p><b>Risks of Acting or Not Acting</b></p> <p>The information available is sufficient to act on as the acoustic evidence confirmed that a solid barrier can mitigate noise to some floors of noise sensitive areas and can be used in combination with other more pertinent measures, being the 30m setback, sound insulation and orientation of buildings.<sup>1</sup></p>	
3. Include a rule making noise sensitive activities within the 30m setback a non-complying activity, and amending Policy 4.2.16c to	Noise sensitive activities within the 30m setback are a discretionary activity.	<p><b>Benefits</b></p> <p><u>Environmental</u></p> <ul style="list-style-type: none"> <li>The rule would further reduce the risk of reverse sensitivity effects on industrial neighbours as a result of noise sensitive activities in close proximity, by avoiding such development</li> </ul>	The non-complying activity rule and supporting policy is an effective and efficient method that further reduces the risk of reverse sensitivity

<sup>1</sup> Rebuttal evidence of James Bell-Booth, paras 32, 33.

Further Changes	Other reasonably practicable options	Efficiency and effectiveness (including costs and benefits and risks of acting or not acting)	Reasons for deciding on the provisions
support it.		<p>within 30m.</p> <p><u>Economic</u></p> <ul style="list-style-type: none"> <li>There may be some economic benefits for industrial neighbours by further reducing the risk of reverse sensitivity effects.</li> </ul> <p><u>Social</u></p> <ul style="list-style-type: none"> <li>There are no identifiable social benefits.</li> </ul> <p><u>Cultural</u></p> <ul style="list-style-type: none"> <li>There are no identifiable cultural benefits.</li> </ul> <hr/> <p><b>Costs</b></p> <p><u>Environmental</u></p> <ul style="list-style-type: none"> <li>There are no identifiable environmental costs.</li> </ul> <p><u>Economic</u></p> <ul style="list-style-type: none"> <li>There may be a minor economic cost in reducing the flexibility for design of the residential development.</li> </ul> <p><u>Social</u></p> <ul style="list-style-type: none"> <li>There are no identifiable social costs.</li> </ul> <p><u>Cultural</u></p> <ul style="list-style-type: none"> <li>There are no identifiable cultural costs.</li> </ul> <hr/> <p><b>Risks of Acting or Not Acting</b></p> <p>The information that is available is sufficient as the acoustic advice</p>	effects on industrial neighbours.

Further Changes	Other reasonably practicable options	Efficiency and effectiveness (including costs and benefits and risks of acting or not acting)	Reasons for deciding on the provisions
		is that the 30m setback area is not a suitable location for noise sensitive activities.	
4.Exempt the PC13 site from Rule 9.3i requiring a restricted discretionary activity consent if it also requires an air discharge permit and is within 100m of the boundary.	Do not exempt the PC13 site from Rule 9.3i	<p><b>Benefits</b></p> <p><u>Environmental</u></p> <ul style="list-style-type: none"> <li>There are no identifiable environmental benefits.</li> </ul> <p><u>Economic</u></p> <ul style="list-style-type: none"> <li>There is an economic benefit to industrial neighbours by maintaining the current situation whereby an activity requiring a Regional Council air discharge permit is a permitted activity. Therefore, they would not incur the time, costs and risks associated with obtaining a land use consent.</li> </ul> <p><u>Social</u></p> <ul style="list-style-type: none"> <li>There are no identifiable social benefits.</li> </ul> <p><u>Cultural</u></p> <ul style="list-style-type: none"> <li>There are no identifiable cultural benefits.</li> </ul> <p><b>Costs</b></p> <p><u>Environmental</u></p> <ul style="list-style-type: none"> <li>There may be a small environmental cost and risk by permitting air discharge activities close to a residential zone. However, those costs are mitigated because an air discharge consent will still be required from the Regional Council so any environmental effects on the residential activities will be considered through that process. Rule 9.3i is somewhat of a duplication by requiring consents from both the City and</li> </ul>	The further change exempting the site from the provisions of Rule 9.3i is appropriate because any environmental risk is adequately addressed by the requirement for Regional Council air discharge permits.



Further Changes	Other reasonably practicable options	Efficiency and effectiveness (including costs and benefits and risks of acting or not acting)	Reasons for deciding on the provisions
		<p>Regional Council.</p> <p><u>Economic</u></p> <ul style="list-style-type: none"> <li>There are no identifiable economic costs.</li> </ul> <p><u>Social</u></p> <ul style="list-style-type: none"> <li>There are no identifiable social costs.</li> </ul> <p><u>Cultural</u></p> <ul style="list-style-type: none"> <li>There are no identifiable cultural costs.</li> </ul> <p><b>Risks of Acting or Not Acting</b></p> <p>The information that is available is sufficient as there are no air discharge activities in close proximity to the PC13 site and the nature of the adjacent activities, including existing residential activities, means that such activities would already be subject to constraints. There is low risk of significant adverse environmental outcomes.</p>	
5.Amend the height limit to 16m inclusive of roof form (Rule 4.6.7 c).	Retain a 15m height limit	<p><b>Benefits</b></p> <p><u>Environmental</u></p> <ul style="list-style-type: none"> <li>There are no identifiable environmental benefits.</li> </ul> <p><u>Economic</u></p> <ul style="list-style-type: none"> <li>There is an economic benefit as the 16m height which allows for 5 storeys is an efficient approach given that the site constraints preclude development of some parts of it. It also provides design flexibility to enable 5 storey buildings taking</li> </ul>	The amended height limit provides additional design flexibility enable 5 storey buildings enabling more efficient use of the site.

Further Changes	Other reasonably practicable options	Efficiency and effectiveness (including costs and benefits and risks of acting or not acting)	Reasons for deciding on the provisions
		<p>into account a range of floor to ceiling heights and accommodating inter-floor services in multi-storey buildings<sup>2</sup>.</p> <p><u>Social</u></p> <ul style="list-style-type: none"> <li>• There are no identifiable social benefits.</li> </ul> <p><u>Cultural</u></p> <ul style="list-style-type: none"> <li>• There are no identifiable cultural benefits.</li> </ul> <p><b>Costs</b></p> <p><u>Environmental</u></p> <ul style="list-style-type: none"> <li>• The amended rule will have negligible environmental effects as a result of the change in height. The 15m height limit had an additional allowance for the roof form in accordance with the MDRS, but the proposed 16m includes the roof form which accords with the ODP, so in practice the built form will be very similar. The 16m height does not change the basic design concept for the site.<sup>3</sup></li> </ul> <p><u>Economic</u></p> <ul style="list-style-type: none"> <li>• There are no identifiable economic costs.</li> </ul> <p><u>Social</u></p> <ul style="list-style-type: none"> <li>• There are no identifiable social costs.</li> </ul> <p><u>Cultural</u></p> <ul style="list-style-type: none"> <li>• There are no identifiable cultural costs.</li> </ul>	

<sup>2</sup> Statement of Evidence of Michael Campbell for Kainga Ora, para 4.9

<sup>3</sup> Rebuttal evidence of Stuart Mackie, para 23

Further Changes	Other reasonably practicable options	Efficiency and effectiveness (including costs and benefits and risks of acting or not acting)	Reasons for deciding on the provisions
		<b>Risks of Acting or Not Acting</b>  There is sufficient information available supporting the 16m height limit; it includes the evidence of Michael Campbell for Kainga Ora and Stuart Mackie for the applicant. <sup>4</sup>	
6. Amend Rule 4.8.12dii to require a pedestrian connection on Sir Tristram from any pedestrian connection to the Precinct.	Do not require the pedestrian connection.	<b>Benefits</b> <u>Environmental</u> <ul style="list-style-type: none"> <li>There is an environmental benefit in enhancing pedestrian connectivity from the Precinct to Te Rapa Road and the nearby public transport and commercial services. This will support the use of alternative transport modes and reduce dependency on car trips.</li> </ul> <u>Economic</u> <ul style="list-style-type: none"> <li>There are no identifiable economic benefits.</li> </ul> <u>Social</u> <ul style="list-style-type: none"> <li>There are no identifiable social benefits.</li> </ul> <u>Cultural</u> <ul style="list-style-type: none"> <li>There are no identifiable cultural benefits.</li> </ul> <b>Costs</b> <u>Environmental</u> <ul style="list-style-type: none"> <li>There are no identifiable environmental costs.</li> </ul> <u>Economic</u>	The change that requires additional pedestrian connectivity has environmental benefits and minimal additional cost.

<sup>4</sup> Ibid

Further Changes	Other reasonably practicable options	Efficiency and effectiveness (including costs and benefits and risks of acting or not acting)	Reasons for deciding on the provisions
		<ul style="list-style-type: none"> <li>There is a minor economic cost of extending the proposed footpath.</li> </ul> <p><u>Social</u></p> <ul style="list-style-type: none"> <li>There are no identifiable social costs.</li> </ul> <p><u>Cultural</u></p> <ul style="list-style-type: none"> <li>There are no identifiable cultural costs.</li> </ul> <p>.</p>	
		<p><b>Risks of Acting or Not Acting</b></p> <p>The information that is available is sufficient to act. The amendment is supported by Siva Balachandran, the expert transport adviser for the applicant.<sup>5</sup></p>	
7.Delete advice note 1 after Rule 4.8.12f which refers to implementation of no parking restrictions on the west side of Ken Browne Drive.	Retain Advice Note 1.	<p><b>Benefits</b></p> <p><u>Environmental</u></p> <ul style="list-style-type: none"> <li>There is an environmental benefit of retaining the status quo in terms of parking on both sides of Ken Browne Drive. The parking will have the benefit of slowing vehicle speeds and enhancing safety for cyclists.<sup>6</sup></li> </ul> <p><u>Economic</u></p> <ul style="list-style-type: none"> <li>There is a minor economic benefit for nearby commercial and industrial activities by retaining currently available on street parking used by employees and visitors.</li> </ul> <p><u>Social</u></p>	The deletion of the advice note and subsequent retention of on street carparking on Ken Browne Drive will retain the status quo in terms of parking availability and will also enhance safety, particularly for cyclists.

<sup>5</sup> Answer to question from Commissioner Beattie.

<sup>6</sup> Amendment to summary of evidence of Siva Balachandran para 4 (c), evidence of Michael Hall , para 31.

Further Changes	Other reasonably practicable options	Efficiency and effectiveness (including costs and benefits and risks of acting or not acting)	Reasons for deciding on the provisions
		<ul style="list-style-type: none"> <li>• There are no identifiable social benefits.</li> </ul> <u>Cultural</u> <ul style="list-style-type: none"> <li>• . There are no identifiable cultural benefits.</li> </ul>	
		<b>Costs</b> <u>Environmental</u> <ul style="list-style-type: none"> <li>• There are no identifiable environmental costs.</li> </ul> <u>Economic</u> <ul style="list-style-type: none"> <li>• There are no identifiable economic costs.</li> </ul> <u>Social</u> <ul style="list-style-type: none"> <li>• There are no identifiable social costs.</li> </ul> <u>Cultural</u> <ul style="list-style-type: none"> <li>• There are no identifiable cultural costs.</li> </ul>	
		<b>Risks of Acting or Not Acting</b> <p>The information that is available is sufficient, as it includes expert traffic advice from Siva Balachandran, Michael Hall and Alastair Black.</p>	

Hearing Version 29/09/2023