

Property Council New Zealand

Submission on

Hamilton City Council Plan Change 9

31 August 2022

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1. Summary

1.1 Property Council New Zealand Central Region (“Property Council”) welcomes the opportunity to submit on Hamilton City Council’s (“HCC”) Plan Change 9. We have serious concerns regarding the impact of Plan Change 9 on Hamilton’s built environment. In particular, the broad-brush approach used to list historic heritage structures and areas will likely result in unintended consequences such as a watering down of Hamilton’s established heritage buildings, a burden on the City’s Heritage Fund, and halted (or reduced) maintenance across Hamilton’s built environment.

2. Recommendations

2.1 Property Council recommends that HCC:

- Urgently revise their listed built heritage structures, adopting a more targeted and tailored approach that places greater emphasis on balancing protecting Hamilton’s heritage whilst ensuring there is sufficient development capacity;
- Limit Historic Heritage zoning to the five existing areas; Frankton Railway Village, Hamilton East, Hayes Paddock, Claudelands West and Temple View;
- Not apply archaeological overlays to areas that have already been developed on;
- Adopts a common-sense approach to trees that start to become a health and safety hazard to the surrounding environment; and
- Adopts a revised approach to protected root zones, that limits the consenting pressure on private landowners.

3. Introduction

3.1 Property Council is the leading not-for-profit advocate for New Zealand’s most significant industry, property. Our organisational purpose is, “Together, shaping cities where communities thrive”.

3.2 The property sector shapes New Zealand’s social, economic and environmental fabric. Property Council advocates for the creation and retention of a well-designed, functional and sustainable built environment, in order to contribute to the overall prosperity and well-being of New Zealand.

3.3 Property is the second largest industry in the Waikato. There are around \$130.4 billion in property assets across the Waikato, with property providing a direct contribution to GDP of \$2.8 billion (12 percent) and employment for 18,030 Waikato residents.

3.4 Property Council is the collective voice of the property industry. We connect property professionals and represent the interests of 86 Waikato based member companies across the private, public and charitable sectors.

3.5 This document provides Property Councils submission on HCC Plan Change 9. Comments and recommendations are provided on issues relevant to Property Council's members.

4. General Comment

4.1 Plan Change 9 represents a significant shift in HCCs approach to matters of heritage, the environment and archaeological sites. Taken as a whole, Plan Change 9 imposes significant restrictions on intensification and development across broad swathes of Hamilton.

4.2 Like other Tier One Councils, HCC has been required by the National Policy Statement on Urban Development ("NPS-UD"), to significantly upzone Hamilton City Centre to add critically needed housing and meet future development capacity requirements. Intensification is critical to ensure that Hamilton is able to address longstanding housing supply, affordability pressures and help meet New Zealand's carbon neutral goals by reducing urban and regional sprawl.

4.3 Property Council has consistently been in favour of policies that ensure an appropriate balance between preservation of the natural & built environment on one hand and enabling much needed development on the other hand. Given the notification of Plan Change 12, it is critical that HCC does not overly favour historic heritage protections and ensures a cohesive planning framework, that delivers sufficient development capacity.

4.4 Property Council is concerned at the number of new historic heritage areas identified within the walkable catchment of the Hamilton CBD and of Hamilton East. It is apparent that these new areas will compromise the city's ability to intensify its residential development around commercial centres as contemplated in the NPS-UD.

4.5 Our overarching concern is that HCC has struck the wrong balance with Plan Change 9, running the risk of delivering sub-par outcomes for the built environment. The broad-brush approach to preservation will directly restrict development capacity and undermine Central Government's intent with the NPS-UD. It will further undermine the environmental outcomes the NPS-UD hopes to achieve, with Plan Change 9 encouraging urban sprawl and the associated high transport emissions, instead of incentivising urban intensification.

4.6 We are also concerned that the broad-brush approach to heritage and archaeological sites will have a negative long-term impact on genuine buildings and areas that are worthy of protection as a qualifying matter. This runs the risk of Hamilton's built environment ageing at an unsustainable rate, as building owners struggle with the costs and consenting requirements associated with maintaining listed heritage structures.

5. Built Heritage (District Plan Chapter 19, Policies 19.2.1a to 19.2.3k)

5.1 Previously, there were 122 listed built heritage structures in Hamilton. As a result of Plan Change 9, an additional 182 structures have been added to the District Plan. This more than doubles the number of heritage structures across Hamilton.

5.2 In general, Property Council supports protection in the District Plan for buildings and structures of genuine heritage value. Retaining genuine heritage in Hamilton, is critical to maintaining a high quality, desirable and liveable built environment. However, we have grave concerns regarding the approach taken by Plan Change 9 and its impact on Hamilton's built environment.

5.3 In our view, the process undertaken by HCC with regards to Plan Change 9 is flawed. We are concerned that many of the additional 182 structures that have been added to the District Plan do not meet the necessary threshold to be considered heritage. Some of these structures may

meet the threshold to be considered character, but that does not necessarily enable them to meet legal threshold to be considered heritage as per the RMA.

- 5.4 There appears to be examples of structures being listed with features that have been added overtime (i.e., not heritage features) which are now being granted historic heritage protection under the District Plan. We are further concerned that there does not appear to be consideration of the wider context of a structure's site and whether listing a particular structure has any merit outside of the site itself.
- 5.5 We are concerned that as a result of the flawed Plan Change 9 process, which grants listed heritage status to dubious buildings and structures, that there will be negative impact on efforts to maintain buildings and structures of genuine heritage value. The owners of existing heritage buildings have access to a limited pool of public funds to support their restoration and ongoing maintenance. The impact of Plan Change 9, in putting the entire heritage system into disrepute, creates concern that there will be significant pressure on the resources available to support owners of genuine heritage buildings and structures.
- 5.6 We are further worried regarding the impact of poorly targeted heritage buildings and structures on Hamilton's development capacity. Structures that are listed as built heritage face significant development restrictions and require additional resource consents for a range of common activities. For otherwise developable sites, these factors will often prove to be significant barrier to development and will restrict Hamilton's long-term development capacity.
- 5.7 There appears to be a focus on building character rather than on the building's actual heritage value. We note that there is a difference between character and historic heritage and this difference seems to have been lost in the Plan Change and, in the assessments supporting it. We note further that the RMA defines historic heritage in section 2. The emphasis is on the association of the listed qualities with New Zealand's history and cultures. Historic heritage is not equivalent to character, although character buildings may legitimately form part of the city's historic heritage.
- 5.8 Given our concerns, Property Council's recommends that HCC urgently revise their approach to listed historic heritage structures in Hamilton. We recommend adopting a far more targeted and tailored approach to historic heritage to reduce unintended consequences such as reducing ongoing maintenance of existing buildings, and urge that greater consideration be given to the impact on development capacity.

6. Historic Heritage Areas (District Plan Chapter 19, Policies 19.2.4a to 19.2.5a)

- 6.1 HCC has increased the number of historic heritage areas across Hamilton from 5 to 37, with Plan Change 9 adding a 32 additional historic heritage areas. Given the significant restrictions placed on historic heritage areas in the District Plan, the increases in historic heritage areas associated with Plan Change 9 will have a notable and negative impact on Hamilton's development capacity.
- 6.2 Property Council has consistently supported policies that effectively balance the preservation of areas of historic heritage with unlocking additional development capacity for Hamilton.
- 6.3 We believe that it is crucial that HCC enacts policies that preserve our cities areas of genuine heritage, where appropriate, but also enables sufficient development to meet our cities future housing needs.
- 6.4 We have serious concerns regarding both the extent to the which Plan Change 9 expands historic heritage areas and the methodology used by HCC that led to this outcome. We are

deeply concerned that this represents an attempt by HCC to circumvent the NPS-UD and prevent urban intensification.

- 6.5 In our view, many of the metrics that comprise the methodology of HCC in identifying historic heritage areas are flawed. One example of this, is the extent to which Plan Change 9 lists 1970's suburban areas as heritage. Another example would be the lack of consideration within Plan Change 9 for the relative heritage value of structures on the rear of a site. In many cases, a site may have a character styled home on the front of a site but have a number of brick and tile units at the rear. We are concerned that HCC's broad brushed approach is applying significant development restrictions to property of little to no heritage value.
- 6.6 We do not support the addition of 32 additional historic heritage areas in Hamilton. Instead, we recommend that HCC limit historic heritage zoning to the five existing areas; Frankton Railway Village, Hamilton East, Hayes Paddock, Claudelands West and Temple View. We believe that this would better reflect the intent of the heritage provisions in the RMA.
- 6.7 As referenced above, there is a difference between historic heritage areas and character areas. Placing historic heritage area overlays over a range of character areas within walking distance of the city's commercial centres is not consistent with the protection of historic heritage intended under the RMA and appears to be a mechanism to frustrate the intensification direction in the NPS-UD.

7. Archaeological Sites (District Plan Chapter 19, Policies 19.2.6a to 19.2.6g)

- 7.1 With Plan Change 9, HCC has added an additional 57 recorded archaeological sites to the District Plan, on top of the existing 52 archaeological sites. Under the provisions of the District Plan, landowners of a recorded archaeological site are required to seek a resource consent for earthworks or display of signage.
- 7.2 Property Council has questions regarding the need for the additional archaeological site provisions. Genuine archaeological sites are already protected by the provisions of the Heritage New Zealand Pouhere Taonga Act 2014. Under current rules, any significant development requiring an archaeological authority to be obtained from Heritage NZ.
- 7.3 Property Council is also concerned that some of the additional archaeological sites associated with Plan Change 9 fall on top of land that has already been developed on. In our view, the presence of existing housing tends to negate the archaeological value of these sites. The presence of an archaeological overlay on a site creates barriers to private landowners of both time and money, as they are required to seek additional resource consents for activities on their property.
- 7.4 As such, we recommend that HCC does not apply archaeological overlays to areas that have already been developed on. We believe this will prevent inequitable outcomes for existing land users.

8. Significant Natural Areas (District Plan Chapter 20, Policies 20.2.1a to 20.2.2b)

- 8.1 With Plan Change 9, HCC has enacted a broad expansion of Significant Natural Areas ("SNA") in a range of areas across Hamilton. These include areas of many of Hamilton's River gully's and around the banks of the Waikato River.
- 8.2 Property Council has concerns regarding the methodology used by HCC to identify new SNAs. We are worried that the methodology has resulted in the addition of new SNAs that might not

meet the legislative requirements to be considered as such. For example, all river gullies are included, without consideration of whether they are significant and/or natural.

- 8.3 We are further concerned that the expansions of SNAs in Plan Change 9 will place a major onus on private landowners to generate expert reports and assessments after notification. We would have liked to have seen HCC making this investment prior to public notification, to 'ground test' their Plan Change regarding new SNA's.

9. Notable Trees (District Plan Chapter 20, Policies 20.2.3a to 20.2.3e)

- 9.1 Prior to Plan Change 9, Hamilton's District Plan listed approximately 500 notable trees. Notable trees receive significant protection under the District Plan, with many activities involving notable trees requiring a resource consent. Plan Change 9 adds an additional 1,051 notable trees to the District Plan. The additional 1,051 notable trees are on publicly owned land.
- 9.2 While not opposed to this initiative, Property Council recommends that a common-sense approach is taken when trees start to become a danger to the surrounding environment due to height, age, existing structures and/or entanglement with power lines.
- 9.3 Notable trees also receive protected root zones under the District Plan. We are concerned that the significant expansion in protected root zone from Plan Change 9, will in practical terms led to unintended consequences. Private landowners affected by a protected root zone, will be required to go through the costly and time resource consent process in order to do so. This would pose a significant barrier to otherwise beneficial development opportunities.
- 9.4 Numerous properties have protected root zone overlays from protected trees on HCC land including footpaths. If property owners are to be burdened with greater obligations when managing root damage to property, it is imperative that HCC engage with property owners to best mitigate harmful outcomes.
- 9.5 Property Council recommends that a revised approach is taken to protected root zones, that imposes less of a burden onto private landowners and results in a greater degree of 'common-sense' being applied.

10. Conclusion

- 10.1 Property Council members invest, own, and develop property in Hamilton. We wish to thank Hamilton City Council for the opportunity to submit on Plan Change 9 and share our deep concerns, as this gives our members a chance to have their say on the future of our city.
- 10.2 Any further enquires do not hesitate to contact Logan Rainey, Advocacy Advisor, via email: Logan@propertynz.co.nz or cell: 021410787.

Yours Sincerely,



Brian Squiar
Central Committee Chair