

IN THE ENVIRONMENT COURT
AT AUCKLAND

I TE KŌTI TAIAO O AOTEAROA
KI TĀMAKI MAKĀURAU

Decision [2024] NZEnvC 051

IN THE MATTER OF an appeal under clause 14 of the First
Schedule of the Resource Management
Act 1991

BETWEEN HAMILTON CITY COUNCIL
(ENV-2022-AKL-000079)

Appellant

AND WAIKATO DISTRICT COUNCIL

Respondent

AND WARRICK MACDONALD

Section 274 party

Court: Alternate Environment Judge L J Newhook sitting alone under s
279 of the Act

Last case event: Joint memorandum in support of consent order dated
1 March 2024

Date of Order: 25 March 2024

Date of Issue: 25 March 2024

CONSENT ORDER

Under section 279(1)(b) of the Resource Management Act 1991 (**the Act**), the
Environment Court, by consent, orders that:

Hamilton City Council v Waikato District Council



- (1) the relevant provisions in the Proposed Waikato District Plan (**PDP**) are amended as set out in **Appendix A** by inserting a new Objective COMZ-04, a new Policy COMZ-P12 and making amendments to Rule COMZ-R18 relating to the Greenhill Expressway Service Centre;
- (2) the planning maps are amended in accordance with **Appendix B** to show the Greenhill Expressway Service Centre specific control area at 133 Greenhill Road;
- (3) Appeal Point 3 is resolved and the remainder of the appeal stays extant.

B: Under section 285 of the Act, there is no order as to costs.

REASONS

Introduction

[1] This consent order relates to an appeal by Hamilton City Council (**HCC**) against parts of the decisions of Waikato District Council (**the Council**) on the Proposed Waikato District Plan (**PDP**) in relation to the zoning of land at 133 Greenhill Road, Puketaha (**the Site**).

Background

[2] On 9 October 2018 HCC made a submission on the PDP seeking a number of amendments to enable HCC to have an enhanced level of control and input into strategic land use planning and resource consenting within Waikato District.

[3] Malcolm MacDonald is the owner of 33.68 ha of land at the Site.¹ It is located on the north-eastern side of Hamilton, immediately to the east of the Waikato Expressway. The Site was zoned Rural in the Operative Waikato District Plan and was zoned Rural in the notified PDP. Mr Malcolm MacDonald made a submission on the PDP seeking to rezone the Site from Rural to Business Zone, with the inclusion of a Motorway Service Area Overlay.

¹ Lot 2 DP 304594 Blk XIV Komakorau SD.

[4] On 15 July 2019 HCC lodged a further submission in opposition to the relief sought by Mr Malcolm MacDonald on the grounds that the development of non-rural activities in an unplanned manner in the Rural zone can undermine the intent of the Rural zone and can compromise future urban development from occurring in a comprehensive manner.

[5] Following hearings of submissions on the PDP by the Independent Hearing Panel (**IHP**) on behalf of the Council, the following changes to the PDP were made as recorded in Decision Report 28O: Zoning - Rest of District:

- (a) Rezoning a 3 ha area of the Site to Commercial (**COMZ**) subject to a Motorway Services Centre Specific Control Layer. The remainder of the site is zoned General rural (**GRUZ**);
- (b) Commercial activities within the Motorway Services Centre Specific Control Layer are subject to Rule COMZ-R18 which provides for commercial activities as restricted discretionary activities.

[6] On 1 March 2022 HCC appealed the Council's decision. Appeal Point 3 of the notice of appeal seeks to rezone the whole of the Site General Rural and to delete the Motorway Service Area Overlay and Rule COMZ-R18.

[7] On 15 March 2022 Warrick MacDonald, as a successor of Mr Malcolm MacDonald, gave notice of an intention to become a party under s 274 of the Act.

[8] The parties jointly filed a memorandum and a draft consent order on 1 March 2024 seeking to resolve Appeal Point 3 of HCC's appeal.

Agreement reached between the parties

[9] Since the appeal was filed, the parties have engaged in direct discussions and a Court-assisted mediation on 20 June 2023. The parties have reached an agreement to make substantive changes to the decisions version of the PDP.

[10] The agreed amendments involve inserting a new Objective COMZ-04, a new Policy COMZ-P12 and changes to Rule COMZ-R18. They are set out in Appendix A of this order and summarised as follows:

- (a) Insert new policy COMZ-P12 relating to the Greenhill Expressway Service Centre and minor amendments to policy COMZ-P12 to include reference to retail activities in clause (1)(a) and, to identify in clause (1)(c) that the expressway interchange functions as a key gateway into Hamilton City;
- (b) Amend Rule COMZ-R18 to manage any potential adverse effects by:
- (i) Specifying the activities that can be established as part of the expressway service centre;
 - (ii) Providing for up to 2000m² gross floor area (GFA) of buildings as a restricted discretionary activity and more than 2000m² as a non-complying activity;
 - (iii) Requiring minimum setbacks and landscaping along the boundaries;
 - (iv) Controlling the number and size of free-standing signs;
 - (v) Managing stormwater reticulation and disposal;
 - (vi) Expanding the matters of discretion for assessment of resource consent applications;
 - (vii) Specifying that the GFA of any retail ancillary to the service station must not exceed 300m²;
 - (viii) Capping the total GFA of the drive-through facilities at 1100m²;
 - (ix) Providing for up to 1600m² gross floor area of buildings as a restricted discretionary activity, between 1601m² and 2000m² as a discretionary activity and more than 2000m² as a non-complying activity;
 - (x) Providing that all building GFA excludes any land beneath canopies over the service station, drive through area, EV charging or outdoor dining areas;
 - (xi) Amending the minimum setback for the western (Waikato Expressway) boundary from 10 metres to 5 metres to allow for the drive-through with canopies; Inserting new information requirements for rule COMZ-R18(4) to require a centre's viability assessment report to be prepared in consultation with, and input from, HCC which assesses the effects of the proposal on the

centres within the Hamilton City Centres Hierarchy and specifically addresses COMZ-P12(1)(a). This new information requirement only applies to discretionary or non-complying activities; and

(xii) Providing a new matter of restricted discretion in clause (f) relating to the effects of the proposal on the centres within the Hamilton City Centres Hierarchy and specifically addressing the matters referred to in COMZ-P12(1)(a).

(c) Insert a new objective COMZ-O4 relating to the Greenhill Expressway Service Centre; and

(d) Minor amendment is required to the planning map showing the Expressway Service Centre Specific Control to accurately reflect the cadastral boundaries of the Site.

Relevant Statutory Framework

National Policy Statement for Urban Development (NPS-UD)

[11] The NPS-UD was considered by the planning expert, Mr Clease, in his statement of evidence.² Mr Clease concludes that the delivery of an appropriately scaled motorway service centre on one of the few sites on the wider motorway network where such a service can be functionally delivered, is consistent with achieving a well-functioning urban environment, enables people (primarily motorway travellers) to have good access to the necessary services, does not limit the functioning of a competitive land market, and is resilient to climate change.

National Policy Statement for Highly Productive Land (NPS-HPL)

² Statement of Evidence of Jonathan Clease dated 8 December 2022, at paragraphs [17.5] - [17.11].

[12] The parties explained in the joint memorandum that the Site is not defined as “highly productive land” under clause 3.5(7) and is therefore not required to satisfy the criteria in clause 3.6 of the NPS-HPL.³

Analysis of agreement reached under s 32AA of the RMA

[13] Section 32AA of the RMA requires further evaluation for any changes to a proposal since the initial section 32 evaluation report and the decision. The parties prepared a s 32AA assessment in their joint memorandum to assess the appropriateness of the agreed amendments. This analysis is set out in Appendix C to this order and summarised below.

[14] In summary, the parties consider that the agreed amendments are appropriate for the following reasons:

- (a) The proposed objective, policy and rule applying to the Greenhill Expressway Service Centre are the most appropriate means of achieving the section 274 party’s objectives for the Site, as well as the objectives of the PDP.
- (b) By limiting the range and extent of retail and commercial activity, the proposal seeks to maintain the integrity of commercial centres in Hamilton City while simultaneously meeting the demand for services at the Greenhill interchange.
- (c) Measures to manage building design, layout and landscaping reflect a conscientious approach to preserving the rural character of the Site and its significance as a gateway into Hamilton City.
- (d) Overall, the provisions are tailored to strike a balance between fulfilling the section 274 party’s objectives and upholding the broader interests of the surrounding community and environment.

Consideration

³ Joint Memorandum in Support of Draft Consent Order dated 1 March 2024, at paragraphs [23] – [31].

[15] In making this order the Court has read and considered:

- (a) the notice of appeal dated 1 March 2022; and
- (b) the joint memorandum of the parties in support of draft consent orders dated 1 March 2024.

[16] The Court is making this order under section 279(1) of the Act, such order being by consent, rather than representing a decision or determination on the merits. The Court understands for present purposes that:

- (a) all parties to the proceedings have executed the memorandum requesting this order; and
- (b) all parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to the relevant requirements and objectives of the Act including, in particular, Part 2.

[17] The Court is satisfied that the changes sought are within the scope of HCC's submissions and appeal.

Order

[18] The Court orders, by consent, that:

- (a) the relevant provisions in the PDP are amended in accordance with **Appendix A** to this order by inserting a new Objective COMZ-04, a new Policy COMZ-P12 and making amendments to Rule COMZ-R18 relating to the Greenhill Expressway Service Centre;
- (b) the planning map is amended in accordance with **Appendix B** to show the Greenhill Expressway Service Centre specific control area at the Site;
- (c) Appeal Point 3 of the appeal is resolved and the remainder of the appeal stays extant; and

(d) there is no order as to costs.



L J Newhook

Alternate Environment Judge



APPENDIX A: AMENDED PROVISIONS

Appendix A: Amended provisions

COMZ-O4 Greenhill Expressway Service Centre

An Expressway Service Centre at the SH1 Greenhill interchange which efficiently meets the convenience needs of passing expressway traffic.

COMZ-P12 Greenhill Expressway Service Centre

- (1) Provide for an Expressway Service Centre at the Greenhill interchange whilst:
- (a) Limiting the range, extent and overall size of retail and commercial activity in order to maintain and not undermine the role and function of commercial centres within Hamilton City;
 - (b) Maintaining the safe and efficient functioning of the adjacent road network;
 - (c) Managing building design, layout, and landscaping in recognition of the site's visually prominent location in a rural environment at an expressway interchange which functions as a key gateway into Hamilton City.

Advice note: The following COMZ policies do not apply to the Greenhill Expressway Service Centre specific control area: COMZ-P1, COMZ-P2(1)(a), COMZ-P3, COMZ-P5, COMZ-P6, COMZ-P11

<u>COMZ-R18 Commercial activities Expressway Service Centre within the Motorway Expressway Service Centre specific control area</u>	
<p>(1) Activity status: RDIS Activity-specific standards: Nil.</p> <ul style="list-style-type: none"> (a) <u>The establishment and operation of an Expressway Service Centre;</u> (b) <u>The Expressway Service Centre must contain a service station but the GFA of any retail ancillary to that service station shall not exceed 300m².</u> (c) <u>In addition to b) above, the Expressway Service Centre may contain any of the following activities:</u> <ul style="list-style-type: none"> i. <u>Electric Vehicle charging stations;</u> ii. <u>Truck stop;</u> iii. <u>Food and refreshment outlets without drive- through facilities.</u> iv. <u>A maximum of three food and refreshment outlets with drive-through facilities not exceeding a total GFA of 1100m²;</u> v. <u>Picnic and/or playground areas;</u> vi. <u>Sealed vehicle parking areas;</u> vii. <u>Public amenity;</u> viii. <u>Storage area for tow trucks;</u> ix. <u>Automatic teller machine banking facilities (ATMs);</u> 	<p>(2) Activity status: NC Where: (a) Any other activity within the Motorway service centre specific control area.</p> <p><u>(2) Activity status where compliance is not achieved with COMZ-R18 (1)(f)-(i): DIS</u></p> <p><u>(3) Activity status for any activity not listed in, or that does not comply with, COMZ-R18 (1)(a)-(c) or (e): NC</u></p> <p><u>(4) Activity status for an activity not complying with COMZ-R18 (1)(d):</u></p> <ul style="list-style-type: none"> <u>(a) Between 1601m²-2000m²: DIS;</u> <u>(b) Above 2000m²: NC.</u> <p><u>Information requirements for activity status rule COMZ-R18 (4):</u></p> <p><u>A Centres Viability Assessment report prepared in consultation with, and input from, Hamilton City Council which assesses the effects of the proposal on the centres within the Hamilton City Centres</u></p>

<p>x. <u>Accessory buildings for the activities provided for under COMZ-R18(1)(a), (b) and (c)(i)-(ix) to be used exclusively for administration, staff, storage, or utilities.</u></p> <p>(d) <u>Total of all building GFA must not exceed 1600m². For the avoidance of doubt this excludes any land beneath canopies over service station, drive through area, EV charging or outdoor dining areas.</u></p> <p>(e) <u>All buildings (excluding signage and utilities) must have a minimum setback of 10m from all site boundaries except the western (Waikato Expressway) boundary where a 5m minimum setback applies.</u></p> <p>(f) <u>A landscape strip is to be provided within the minimum setbacks required under e) above, excluding vehicle crossings and land used for signage and utilities.</u></p> <p>(g) <u>The landscaping required under (f) above shall be carried out in accordance with the following:</u></p> <p>i. <u>Where required, the area must be of a permeable nature for stormwater purposes, consist of a combination of groundcovers and shrubs or hedges, and include specimen trees to serve as landscape buffers.</u></p> <p>ii. <u>Landscape planting must not encroach on signage sight lines.</u></p> <p>(h)</p> <p>i. <u>The sign chapter rules for the COMZ zone apply to the special control area except for SIGN-R20(1)(a)(ii) and (v) which do not apply to free standing road frontage signs.</u></p> <p>ii. <u>One free-standing sign may be located adjacent to the vehicle entrance from Greenhill Road. The sign shall have a maximum width of 2.4m and a maximum height from ground level of 10m.</u></p> <p>iii. <u>No more than three free-standing signs may be located adjacent to the specific control area boundary with the expressway. The signs shall have</u></p>	<p><u>Hierarchy and specifically addresses COMZ-P12(1)(a).</u></p> <p>Advice notes:</p> <p>The other “land-use activities” listed within the <u>COMZ – Commercial zZone (COMZ R1- 17, R19-24)</u> do not apply to the <u>Motorway Expressway sService eCentre</u> specific control area, however the land-use effects and land-use standards do apply. <u>The “land use – effects” and “land use – building” standards do not apply to the Expressway Service Centre except COMZ-S3 and COMZ-S4</u></p>
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a maximum width of 2m and a maximum height of 16m.

- (i) A stormwater reticulation and disposal system shall include a wetland and/or rain gardens and swales. Stormwater management measures must be in place prior to the commencement of any Expressway Service Centre and must ensure that the rate of stormwater discharge offsite is at or below pre-development rates. Stormwater management measures must be implemented, as appropriate, in accordance with the following drainage hierarchy:
- i. Retention for reuse
 - ii. Soakage techniques
 - iii. Detention and gradual release to a watercourse
 - iv. Detention and gradual release to stormwater reticulation

For RDIS activity status, Council's discretion is restricted to the following matters:

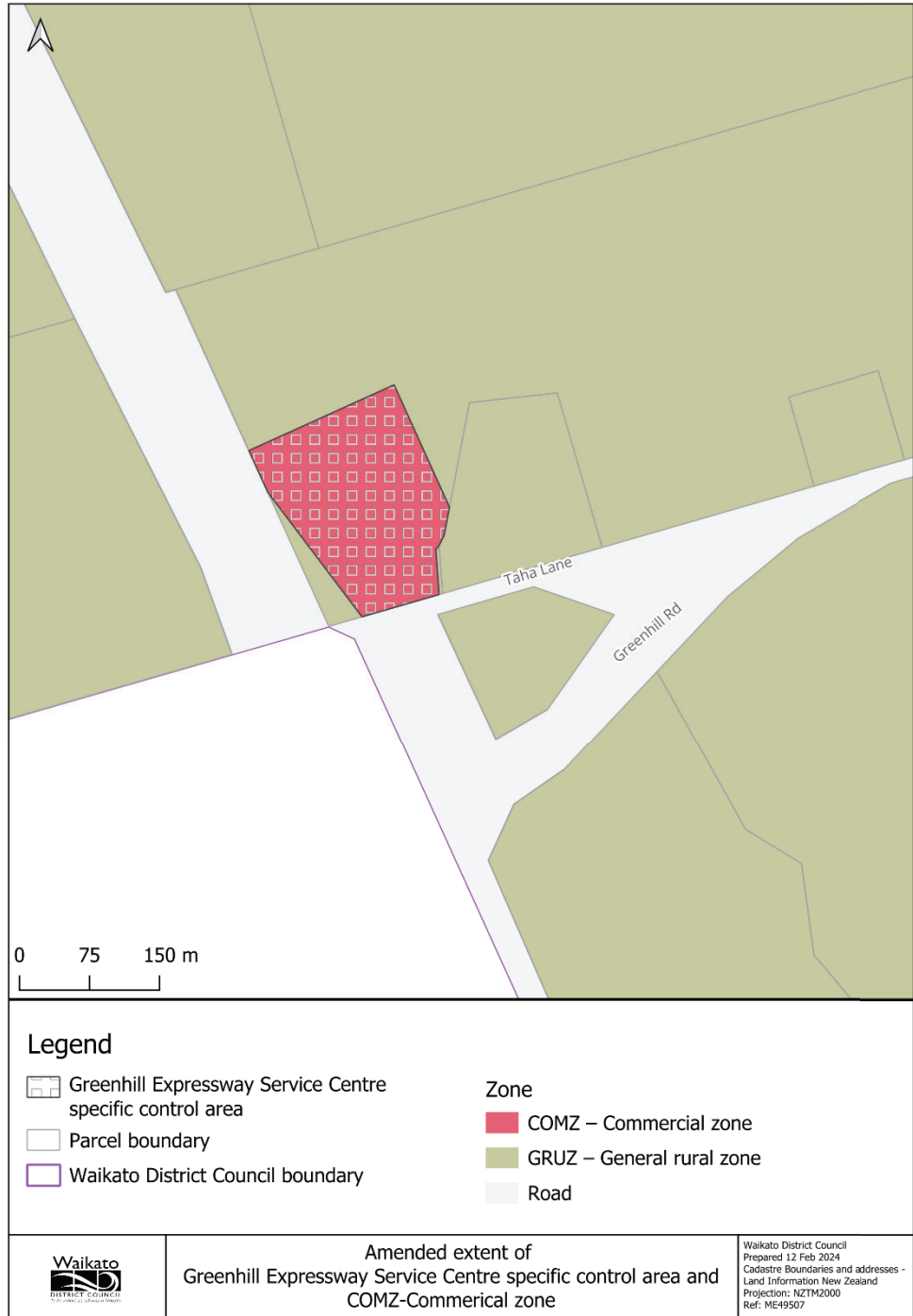
- ~~(a) Effects on amenity of the locality;~~
~~(b) Landscaping;~~
~~(c) Design and layout;~~
~~(d) Effects on efficiency and safety of the land transport network, including the Waikato Expressway;~~
~~(e) Access design; and~~
~~(f) Potential reverse sensitivity effects.~~
- (a) Effects on the amenity of the rural locality;
(b) Effects on the efficiency and safety of the land transport network, including the Waikato Expressway, Wairere Drive including the Pardoia / Wairere roundabout, Pardoia Boulevard and Webb Drive;
(c) Potential reverse sensitivity effects;
(d) Provision for on-site water supply and stand-alone infrastructure relating to potable water, wastewater and stormwater;
(e) Design and layout of the site, buildings, and carparking including;

<ul style="list-style-type: none"> i. <u>The visual appearance of the site from the adjacent road network and expressway;</u> ii. <u>The extent and location of landscaping and stormwater swales / basins and the inclusion of native species;</u> iii. <u>The design and orientation of buildings;</u> iv. <u>The provision of safe, legible pedestrian access; from parking areas to buildings and rest areas;</u> <p>(f) <u>Effects of the proposal on the centres within the Hamilton City Centres Hierarchy and specifically addressing the matters referred to in COMZ-P12(1)(a).</u></p>	
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<u>Definition</u>	<u>Meaning</u>
<u>Expressway Service Centre (Expressway Service Centre specific control area)</u>	<u>Means a building or place used to primarily provide refreshments and vehicle services to expressway users.</u>
<u>Food and refreshment outlets (Expressway Service Centre specific control area)</u>	<u>Means premises serving food and/or beverages prepared for immediate consumption on or off the premises to the general public.</u>
<u>Drive-through facility (Expressway service centre specific control area only)</u>	<u>Means a retail activity where the goods/services are sold to a customer while remaining within their vehicle. It includes facilities that may form part of another facility, including food and beverage outlets, but excludes a service station.</u>
Service station	A facility where the primary business is selling motor vehicle fuels. It may include some or all of the following ancillary activities: <ul style="list-style-type: none"> (a) Retail; (b) Car wash facilities; (c) Mechanical repair, servicing and testing of motor vehicles and domestic equipment; (d) Sale of lubricating oils, kerosene, LPG, or spare parts and accessories for motor vehicles; or (e) Trailer hire.
Gross floor area, or GFA	Means the sum of the total area of all floors of a building or buildings (including any void area in each of those floors, such as service shafts, liftwells or stairwells), where: <ul style="list-style-type: none"> (a) There are exterior walls, measured from the exterior faces of those exterior walls; (b) There are walls separating two buildings, measured from the centre lines of the walls separating the two buildings;

	(c) A wall or walls are lacking (for example, a mezzanine floor) and the edge of the floor is discernible, measured from the edge of the floor
Public amenity	Means facilities continuously offered to the general public for their use with or without charge. It includes restrooms, information displays, shelters, drinking fountains, outdoor seating or viewing platforms.

APPENDIX B: AMENDED ZONING MAP



APPENDIX C: SECTION 32AA EVALUATION

Section 32AA Evaluation

Greenhill Expressway Service Centre

25 February 2024

1. INTRODUCTION

1.1 Overview

This s32AA evaluation report addresses relevant statutory tests under the Resource Management Act 1991 (**RMA**) as they relate to the appeal from Hamilton City Council (**HCC**) on the Proposed Waikato District Plan (**PDP**).

The appeal sought to reinstate the General rural zone (**GRUZ**) to the land at 133 Greenhill Road (**the site**), as originally proposed in the notified PDP.

Following the submission of Council's evidence to the court on 8 December 2023, the appellant, the respondent and s274 party have agreed on a set of provisions as set out in Appendix A (hereafter, **the proposal**). While Council stands by the evidence submitted by its expert witnesses, Council supports the proposal and the resolution of the appeal.

The report is organised to firstly consider the scale and significance of the proposal, before addressing in turn the following relevant tests:

- (a) the extent to which the objectives of the proposal are the most appropriate way to achieve the purpose of the RMA;¹
- (b) whether the relevant policies and methods are the most appropriate way to achieve the objectives, having regard to their efficiency and effectiveness² and taking into account:³
 - the benefits and costs of the proposed policies and methods; and
 - the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules of other methods.

Section 32AA(1)(a) specifies that a further evaluation is required “only for any changes that have been made to, or are proposed for, the proposal since the evaluation report for the proposal was completed (the changes)”. Section 32AA(3) defines “proposal” as meaning a proposed statement, national planning standard, plan, or change for which a further evaluation must be undertaken under this Act. The last section 32AA evaluation undertaken for this site was in the decision of the Independent Hearing Panel. The decision version of the PDP zoned the site as Commercial zone (**COMZ**) with a Motorway service centre specific control. The decision of the Independent Hearings Panel adopted the s32AA evaluation of the planner representing Mr MacDonald as the submitter.

¹ RMA, section 32(1)(a).

² Ibid, section 32(1)(b).

³ Section 32(2).

Given that HCC's appeal sought that the zone revert to GRUZ but the parties have now agreed on a bespoke set of provisions, this s32AA evaluation uses the decision version as the basis and evaluates agreed changes to that.

1.2 Scale and Significance of the Effects

Further evaluation reports of this nature are required by the RMA to be undertaken at a level of detail that corresponds to the scale and significance of the change proposed⁴. The change in this case being the replacement of the existing provisions in the Commercial Zone chapter that enable development of an expressway service centre at the Greenhill interchange on the Waikato Expressway.

The scale and significance of the proposal has been determined by a qualitative assessment of relevant factors, as recorded in **Attachment 1**. In summary, the scale and significance of the proposed zoning is assessed as **low** for the following reasons:

- the proposal addresses a relevant resource management issue relating to the Council's relevant RMA functions;
- the proposal, in combination with applicable national, regional and district rules, will enable the efficient use and development of natural and physical resources;
- no matters of protection to life and property are directly relevant to the proposal, although the proposal will contribute towards the health and safety of users of the Waikato Expressway;
- relative to the decisions version of the PDP, the proposal amounts to a minor shift in outcomes with the inclusion of more specific provisions to guide the development of the site;
- the proposal affects a single piece of land and has a very confined spatial impact;
- there is no evidence to suggest that the proposal is of particular interest to iwi or the community. While Waka Kotahi submitted in opposition to the rezoning, its concerns were addressed through the PDP hearing and access to the site, with consideration of these matters forming part of the matters of discretion. The only parties interested through the appeal process are HCC and the landowner. The proposal is likely to be of local significance only;
- the proposal is in response to the existence of the Waikato Expressway, and recognises the need to provide for specific service centre activities of an appropriate size due to its proximity to the Hamilton metropolitan area;
- the proposal will not introduce any compliance costs or other financial impacts on third parties;
- with any necessary upgrades and measures being applied at development stage through the applicable district rules, the provisions provide additional certainty that it can be accommodated

⁴ Section 32AA(1)(c).

within the existing transport network, and will neither constrain nor compromise existing or planned infrastructure;

- the proposal will ensure development on the site does not exceed the functional requirements of a service centre; and
- there is a high level of information available to inform decision-making and a corresponding low risk of acting.

Consequently, a high-level evaluation of the proposal has been identified as appropriate for the purposes of this report.

2. Evaluation of Objectives

2.1 Appropriateness in terms of the purpose of the RMA

Council must evaluate, in accordance with s32 of the RMA, the extent to which each objective proposed is the most appropriate way to achieve the purpose of the RMA. There are two parts to this assessment:

- a. There is a new objective proposed COMZ-O4; and
- b. Section 32 clarifies that “objectives” can mean the purpose of the proposal.⁵ In this case, the objective is to enable establishment of the Greenhill Expressway Service Centre in a way which effectively manages any adverse effects.

Section 5

The proposal constitutes sustainable management of natural and physical resources in accordance with s5(1) of the RMA as the site offers a unique opportunity due to its proximity to the Waikato Expressway and the Greenhill interchange. Given that the volumes of traffic on the Waikato Expressway are predicted to continue to increase, the proposal will support future generations of travellers in accordance with s5(2)(a) of the RMA.

The objectives will enable development of a service centre which is an efficient use of resources. The site is located on an interchange, adjacent to the Waikato Expressway. COMZ-O4 sets out a clear anticipated outcome and purpose for the site. Enabling the development will support the social and economic well-being of the community by enabling a space for social interaction as well as additional employment opportunities in accordance with section 5(2) of the Act.

The proposal will enable users of the Waikato Expressway to provide for their health and safety in accordance with s5(2) of the RMA, in that it will enable a safe place to rest, eat and refuel. The proximity of the site to the Waikato Expressway reduces the need for additional kilometres travelled to access

⁵ RMA s32(6)

supporting facilities. The economic assessment demonstrates that the proposal provides for an appropriate scale of activities that will have little or no economic effect on Hamilton's CBD or town centres and is of a size that is some way below the point at which it will give rise to significant adverse retail distribution effects on other existing or proposed commercial centres.

In addition to the economic assessment, the transport assessment demonstrates that the impact of the proposal on the transport network will be negligible and thus supports the health and safety of the community. The development will require a resource consent in accordance with the agreed set of provisions, which provides the opportunity to further avoid, remedy or mitigate any adverse effects on the environment.

Section 6

There are no section 6 matters of relevance to the proposal.

Section 7

The most relevant section 7 matters are discussed below.

Section 7(b) the efficient use and development of natural and physical resources

The site is unique in that it is located directly adjacent to the Waikato Expressway and the interchange with Greenhill Road. As the purpose of the proposal is to support users of the Waikato Expressway, it cannot be located elsewhere. The objective of the amendments is to enable development of an expressway service centre on the western edge of the Greenhill interchange. The proposal therefore constitutes an efficient use of the land in that particular location.

Section 7(c) the maintenance and enhancement of amenity values

The proposal will result in a change in amenity, from rural to commercial while limiting development to the functional needs of a service centre. The proposal objective to manage adverse effects will ensure amenity values are at the very least maintained, albeit with a different form of amenity.

Section 7(f) maintenance and enhancement of the quality of the environment

The site is currently being used for dairy herd grazing and the proposal will result in the retirement of approximately 3 hectares from dairy. The proposal objective to manage adverse effects will ensure the quality of the environment is enhanced.

Section 8 RMA

Section 8 has limited relevance to the proposal. Additional engagement with iwi is anticipated under the PDP at resource consent stage for future development of the site.

Having assessed the objectives of the proposal against Part 2 of the RMA it is considered that they are the most appropriate way to achieve the purpose of the RMA.

3. Evaluation of the Provisions

Section 32 assessments must determine whether the proposed provisions are the most appropriate way to achieve the proposed objectives. This must include the identification of alternatives, and cost benefit analysis of the economic, social, environmental and cultural effects of the provisions including whether opportunities for economic growth and employment are reduced or increased. The risk of acting or not acting where uncertain information exists must also be considered.

To enable the proposal requires a number of discrete amendments to the PDP, including:

- a. Changes to the planning maps;
- b. Changes to the COMZ:
 - o Addition of a new objective COMZ-O4;
 - o Addition of a new policy COMZ-P12;
 - o Replacement rule for development within the Expressway Service Centre specific control area; and
- c. New definitions.

Other consequential amendments to the PDP are necessary to ensure there is no duplication as to the rules and policies that apply to development of the site. The following sections of this report will identify the range of options available, and the efficiency and effectiveness of the preferred provisions.

The following broad options have been identified:

Option 1 – Decision version: Retain the provisions for the Motorway service centre specific control area as contained in the decision.

Option 2 – Amend the provisions for the Expressway Service Centre specific control area: This option would have the effect of amending the provisions for the Expressway Service Centre specific control area in the following way:

- a. Renaming of the overlay to Expressway Service Centre specific control;
- b. Realigning the spatial boundary for the Expressway Service Centre specific control on the planning maps;
- c. Addition of a new policy COMZ-P12;
- d. Additional standards for establishment of an expressway service centre, including gross floor area, specified activities, setbacks, signs, stormwater management and landscaping;
- e. Replacement matters of discretion;

- f. Replacement activity status for non-compliance with particular standards;
- g. Requirement for a Centres Viability Assessment for non-compliance with the gross floor area standard;
- h. Clarification on the relationship between these standards and other standards in the COMZ through an advice note; and
- i. New definitions specific to the Expressway Service Centre specific control area.

The preferred option is Option 2 because it would enable development of the site to support users of the Waikato Expressway, while better managing any adverse effects. This approach retains the bespoke rule that is tailored to the potential effects of the development but includes additional standards and matters of discretion to manage the activities, their size and any adverse effects. Option 1 has been discarded due to the concerns expressed by HCC which include:

- a. That the development would adversely impact the economic viability of existing commercial centres within Hamilton City;
- b. Inconsistency with higher order documents such as the Waikato Regional Policy Statement and National Policy Statement on Urban Development;
- c. The development does not constitute an integrated, sustainable, or planned or an efficient use of land;
- d. Lack of clarity as to exactly what types of activities are permitted to establish;
- e. Omission of effects on compact urban form and cross-boundary effects in respect of Hamilton City from the matters of discretion;
- f. Potential for significant adverse effects on Hamilton's transport networks and the State Highway network; and
- g. Creating a precedent for further development to proliferate along the Hamilton Expressway section in a manner which does not accord with HCC's strategic land use and infrastructure planning.

Table 1 below provides a high-level assessment of the appropriateness of Option 2 for comparative purposes.

Table 1:

Option 2 Amend the provisions for the Expressway Service Centre specific control area

This includes the following amendments:

- Renaming of the overlay to Expressway Service Centre specific control;
- Realigning the spatial boundary for the Expressway Service Centre specific control on the planning maps;
- Addition of a new policy COMZ-P12;
- Additional standards for establishment of an expressway service centre, including:
 - limiting gross floor area
 - restricting development to specified activities
 - imposing setbacks
 - limiting the number and size of signs,
 - rules regarding stormwater management
 - landscaping requirements
- Replacement matters of discretion;
- Replacement activity status for non-compliance with particular standards;
- Requirement for a Centres Viability Assessment for non-compliance with the gross floor area standard;
- Clarification on the relationship between these standards and other standards in the COMZ through an advice note; and
- New definitions specific to the Expressway Service Centre specific control area.

Costs

Environmental costs

The standards for stormwater will remove the opportunity for developers to connect to alternative off-site systems, if any become available in future.

Benefits

Environmental benefits

Potential for increased indigenous vegetation through the requirement for landscape planting.

The landscaping requirement will provide continuity with landscaping along the Expressway boundary.

The estimated trip generation for the proposed scale of service centre can be accommodated by the sufficient spare capacity available at the Greenhill Interchange and on the immediate surrounding road network without anticipating any capacity upgrades over both the short to longer term (2045 and beyond).

	<p>Maintains the safe and efficient functioning of the adjacent road network.</p> <p>Safety of the interchange is ensured through design and layout controls and matters of discretion.</p> <p>Sightlines are retained resulting in a safer transport corridor.</p> <p>The number and size of signs are limited.</p> <p>Effects on the amenity of the rural locality is required to be considered.</p> <p>Adequate management of three waters.</p>
<p>Economic costs</p> <p>Public costs associated with the proposal are minimal. Regulatory and compliance costs necessary to authorise future development of the site will be recoverable through fee collection at application and monitoring stages.</p> <p>Limits the range of activities that can be established on the site.</p> <p>Limits the size of retail and commercial activities, which may constitute lost opportunities, income and job opportunities.</p> <p>Limits the range of employment opportunities available.</p> <p>The level of design detail in the standards is greater than for other commercial development. This introduces an additional cost to the service centre.</p> <p>The signage controls may reduce the visual prominence of the site and therefore reduce economic benefit to business owners in the complex.</p> <p>The standards for stormwater will remove the opportunity for developers to connect to alternative off-site systems, if any become available in future.</p> <p>There is a cost associated with managing stormwater onsite, including maintenance and loss of useable land area.</p> <p>Additional costs associated with architectural and site design.</p>	<p>Economic benefits</p> <p>Little or no economic effect on Hamilton's commercial centres by limiting the range and extent of retail activity.</p> <p>More accessible for large vehicles with the focus on the activities that truly support users of the Waikato Expressway.</p> <p>Ensures a service station is an anchor tenant of the development.</p> <p>An assessment of the effects on the centres within the Hamilton City Centres is required to be undertaken.</p> <p>Little or no effect on the role and function of Hamilton commercial centres.</p> <p>Signage will provide a visual cue to the location of the service-centres and allow for business recognition.</p>
<p>Social costs</p> <p>Bespoke service centre provisions would result in a reduced range of retail, food</p>	<p>Social benefits</p> <p>Reduced risk of reverse sensitivity effects arising from the Waikato Expressway</p>

<p>and beverage and other services for the public.</p> <p>There is potential for the landscaping could reduce the prominence of the service centre and therefore confuse motorists when looking ahead for a visual cue.</p>	<p>with a clear scope of land use activities enabled.</p> <p>Provides facilities for motorists utilising the Waikato Expressway. This will improve the safe operation of the Waikato Expressway by allowing rest, food and refueling opportunities.</p> <p>Opportunity to create a gateway to Hamilton.</p> <p>Enables supporting facilities such as a picnic and/or playground area.</p> <p>Enables storage of tow trucks to support the continued operation of the Waikato Expressway.</p> <p>Explicitly supports a range of different vehicle types e.g. internal combustion engines and electric vehicles.</p> <p>Reverse sensitivity effects are required to be considered.</p> <p>Safe legible pedestrian access must be provided.</p> <p>The design and layout of buildings is assessed through the resource consent process.</p> <p>Signage is limited so would not adversely affect or distract passing motorists.</p>
<p>Cultural costs</p> <p>No known costs for iwi have been associated with the site's potential development through the PDP process, and no iwi authority has submitted in opposition, or joined as a s274 party, to the proposal.</p>	<p>Cultural benefits</p> <p>Opportunity to incorporate cultural concepts in the design and story telling.</p> <p>Stormwater management onsite and wetlands will improve the quality of the stormwater runoff, which will turn support the health of the Waikato River.</p>

<p>Opportunities for economic growth</p> <p>While the overall proposal enables economic growth as a result of developing the service centre, the economic growth directly related to the site is more modest as a result of the amended provisions which limits the gross floor area and the types of activities that can establish. The provisions control the extent of development. The purpose of this is to ensure that the service centre does not encroach on the economic viability of Hamilton centres.</p>	<p>Opportunities for employment</p> <p>While the overall proposal enables employment opportunities as a consequence of developing the service centre, the amended provisions may have the effect of limiting the number and type of jobs available. This is due to the introduction of gross floor area size limits and limits on the types of activities that can establish.</p> <p>Certainty and sufficiency of information</p> <p>The proposal has been subject to an appropriate level of investigation as to the effects of the amended provisions, and there are no material gaps in the knowledge base that give rise to any need for a risk assessment.</p>
<p>Effectiveness and efficiency</p>	
<p>Effectiveness</p> <p>The proposal will enable the effective implementation of the relevant PDP objectives, new objective COMZ-04 and the objectives of the proposal.</p> <p>The suite of provisions will enable the development of an Expressway Service Centre to support the safe operation of the Waikato Expressway. The new standard for the restricted discretionary activity will ensure that the scale and scope of landuse activities is limited to ensure no adverse effect on the commercial centres within Hamilton.</p> <p>The option will effectively achieve the following PDP objectives:</p> <ul style="list-style-type: none"> • SD-01 Socio-economic advancement – the provisions will support economic growth. • SD-05 Integration of infrastructure and land use – the standards ensure that the development is able to be serviced for three waters onsite. The matter of discretion around the effects on the land transport network ensures that the transport network can accommodate all vehicle movements associated with the development. 	<p>Efficiency</p> <p>The provisions are an efficient way to achieve the objectives. New policy COMZ-P12 sets out clearly the purpose of the development and identifies the three main areas where adverse effects are likely, and therefore controlled through the new standards. The development of the service centre is restricted discretionary activity status, and the adverse effects are managed by targeted standards and then assessed through focused matters of discretion.</p> <p>The changes to the PDP will enable this development to proceed, while managing any adverse effects through an activity status hierarchy. The activity status for non-compliance differs depending on the importance of the standard that is not complied with.</p> <p>The inclusion of an advice note clarifies which provisions apply to the site, and avoids the situation of overlapping and conflicting standards applying.</p> <p>The amendments utilise the existing specific control area overlay, with targeted provisions applying to this site and is an efficient approach to enabling</p>

<ul style="list-style-type: none"> • SD-O7 Regionally significant infrastructure and industry – the provisions recognise and supports the regionally significant infrastructure that is the Waikato Expressway. • SD-O10 Reverse sensitivity – the proposal will not give rise to reverse sensitivity effects from the Waikato Expressway, and this is expressly recognised as a matter of discretion. • COMZ-O1 Economic growth of industry – commercial activity is focused into the commercial zones and each zone has a different purpose. • COMZ-O2 Commercial zone character – the provisions effectively limit the scale of the development. • AINF-O8 Land transport network – the provisions will effectively support the strategic road network, which in turn enhances economic well-being, and supports growth and productivity within the Waikato region and upper North Island. This is achieved through inclusion of a matter of discretion regarding the effects on the efficiency and safety of the land transport network. • TETW-O1 Achieving Te Ture Whaimana (Vision and Strategy for the Waikato River) – the standard requiring stormwater to be managed onsite through a wetland and/or rain gardens and swales and that achieves a rate of stormwater discharge offsite is at or below pre-development rates will assist in maintaining the water quality of the Waikato River. 	<p>appropriate development of a service centre on the site. This results in no consequential changes to the planning framework for other COMZ sites</p>
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Overall evaluation

Option 2 is the most appropriate option to achieve the PDP’s objectives, when read as a whole. It is anticipated to have a high net benefit, in contrast to Option 1, which is anticipated to result in greater costs than benefits.

The provisions outlined in the Option 2 proposal are crafted to ensure they represent the most appropriate means of achieving the stated objectives. By limiting the range and extent of retail and commercial activity, the proposal seeks to maintain the integrity of commercial centres in Hamilton City while simultaneously meeting the demand for services at the Greenhill interchange.

Moreover, measures to manage building design, layout, and landscaping reflect a conscientious approach to preserving the rural character of the site and its significance as a gateway into Hamilton City.

Overall, the provisions outlined in the proposal are tailored to strike a balance between fulfilling the project's objectives and upholding the broader interests of the surrounding community and environment.

3.1 Reasons for deciding on the provisions

The further refinement of the site-specific rules to the site at 133 Greenhill Road are the most appropriate ways to achieve the objective of the proposal and the objectives within the PDP. They provide for the development of the site in a way which will minimise adverse effects.

The proposed provisions are considered to be the most efficient and effective means of achieving the objectives of the PDP as together they will:

- assist in achieving the relevant PDP Strategic Objectives, including SD-O1, SD-O5, SD-O7 and SD-O10;
- enable the Council to fulfil its statutory obligations, including section 31 of the RMA;
- achieves the relevant Part 2 Matters, namely sections 7(b), 7(c), and 7(f) of the RMA;
- achieve the objective of the proposal without the need for wide-reaching changes to the PDP; and
- enable the Council to effectively administer its district plan and to monitor the outcomes of the proposed provisions in a clear and consistent manner.

4. CONCLUSION

Pursuant to s32 of the RMA, the proposed objective of the proposal to develop an Expressway Service Centre on the site at 133 Greenhill Road in a way that effectively manages any adverse effects and the inclusion of new objective COMZ-O4 have been analysed against Part 2 of the RMA and are considered to be the most appropriate way to achieve the purpose of the RMA.

The proposed provisions have been compared against reasonably practicable options. The amended provisions are considered to represent the most appropriate means of achieving the proposed objectives, as well as the objectives in the PDP.

ATTACHMENT 1 – Scale and Significance Assessment

The matrix below has been used to inform the assessment of the proposal's scale and significance.

Criteria	Scale/Significance			Comment
	Low	Medium	High	
Addresses a resource management issue	X			<ul style="list-style-type: none"> The proposal relates to Council's functions under s31(1)(a), s31(1)(aa) and s31(2) of the RMA. Implements higher order direction from national and regional planning instruments. Enables efficient use and development of natural and physical resources under s7 of the RMA, to be provided for through a resource consent process. The amendments to provisions are in response to concerns raised by HCC in its appeal.
Addresses a matter that relates to human health or the protection of life and property	X			<ul style="list-style-type: none"> The proposal does not directly relate to a human health matter or the protection of life or property. Application of relevant national, regional and district rules (for example, relating to the handling and remediation of contaminated land, or the potential impacts of natural hazards and climate change) will afford appropriate protections irrespective of the proposal.
Degree of shift from the status quo	X			<ul style="list-style-type: none"> The amended provisions only relate to development on the site. The amended provisions maintain the same starting activity status but include additional standards and amended matters of discretion.
Who and how many will be affected/ geographical scale of effect/s	X			<ul style="list-style-type: none"> The geographical scale of the proposal is site-specific. The corresponding scale of effect will be relatively minor, and limited to the site and local vicinity. However the site will be accessible to all users of the Waikato Expressway.

Degree of impact on or interest from iwi/ Māori	X			<ul style="list-style-type: none"> Iwi were consulted by the Council in the formative stages of the PDP. Further submissions on the submission from Mr MacDonald seeking rezoning were not received from iwi. No iwi authority has joined as a s274 party to the appeal. Additional engagement with iwi is anticipated under the PDP at resource consent stage for future development of the site.
Degree of likely community interest		X		<ul style="list-style-type: none"> No opposing submissions were made on the zoning of the site by the local community apart from Waka Kotahi with respect to network safety and efficiency and HCC who expressed concerns that development of non-rural activities in an unplanned manner in the Rural zone could undermine the intent of the zone and compromise future urban development from occurring in a comprehensive manner. Only Mr MacDonald has joined as a s274 party in opposition to HCC's appeal. Users of the Waikato Expressway are likely to be interested in the proposal.
Likelihood of resulting in major financial impact on households / community due to compliance or administrative costs	X			<ul style="list-style-type: none"> The proposal is not anticipated to result in any increased compliance costs beyond those incurred by the landowner, particularly as the servicing for water, wastewater and stormwater will all be on site.
Implications for servicing and transport networks	X			<ul style="list-style-type: none"> With any necessary upgrades and measures being applied at subdivision stage through the applicable regional and district rules, the proposal can be accommodated within the existing transport network, and will neither constrain nor compromise existing or planned infrastructure.
Type of effect/s	X			<ul style="list-style-type: none"> The amended provisions will more comprehensively manage any adverse effect of the proposal including: <ul style="list-style-type: none"> Economic effect on Hamilton's commercial centres Three water servicing Effects on the transport network Visual effects

				<ul style="list-style-type: none"> • Opportunities to enhance biodiversity will be enabled through the development of the site. • The proposal will have no effect on Hamilton’s commercial centres.
Likelihood of significantly reducing development opportunities or land use options		X		<ul style="list-style-type: none"> • The amended provisions will reduce the scale of the development and the range of land use activities on the site.
Degree of risk and uncertainty	X			<ul style="list-style-type: none"> • There is a high level of information to inform decision-making on the proposal, and a correspondingly low risk associated with the proposed provisions.
OVERALL ASSESSMENT	X			For the above reasons, the proposal is assessed as having a low overall scale and significance.