



Submission on the investigation into planning provisions in the Hamilton City Operative District Plan

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To the Ministry for Cities, Environment, Regions and Transport

Submitter details

This submission is from the Parliamentary Commissioner for the Environment, Simon Upton.

My contact details are:

Phone: 04 495 8350

Email: pce@pce.parliament.nz

Parliamentary Commissioner for the Environment

The Parliamentary Commissioner for the Environment was established under the Environment Act 1986. As an independent Officer of Parliament, the Commissioner has broad powers to investigate environmental concerns and is wholly independent of the government of the day. The current Parliamentary Commissioner for the Environment is Simon Upton.

Introduction

It has been brought to my attention that the Minister for Resource Management Act reform is undertaking an investigation into aspects of the Hamilton City Operative District Plan under section 360J of the Resource Management Act. The aspects in question include deep soil and canopy cover requirements, mandatory electric vehicle charging infrastructure, e-bike storage requirements, and building design controls. These provisions were introduced by Plan Change 12 (PC 12), which implemented the Medium Density Residential Standards (MDRS) in response to national direction to improve housing supply.

This submission focuses solely on the deep soil and canopy cover requirements. I understand these were included in PC 12 to help mitigate the stormwater and heat island effects associated with ongoing urban intensification. This is an area I have taken a considerable interest in, particularly given the hotter summers and more intense rainfall that climate change will bring with it. My 2023 report, *Are we building harder, hotter cities? The vital importance of urban green spaces*, canvassed the issues in detail.

I am surprised that the deep soil and canopy cover requirements introduced by PC 12 are being challenged. In my view, these sorts of approaches are exactly what is required to allow our cities to densify while simultaneously coping with the challenges posed by climate change. Soil plays a critical role in buffering stormwater flows. It is also essential for the growth of resilient urban trees and the cooling services they provide. Despite these benefits, the tendency of modern developments to terraform the existing topography to make way for concrete pad foundations is making deep soil an increasingly scarce commodity in New Zealand's urban environments. My

2024 report, *Urban ground truths: Valuing soil and subsoil in urban development*, examined these issues in detail.

Before modifying or altering the provisions of a policy statement or plan under section 360I, the Minister must be satisfied (among other things) that the provisions have a negative impact on economic growth, development capacity or employment.¹ I am not sufficiently familiar with the intricacies of Hamilton's District Plan to comment on whether that test is met or not. But I would offer two observations.

Firstly, Hamilton's Medium Density Residential Zone requires 20% of the development area to be set aside as landscaped area.² This is not being challenged, presumably because it originates from the MDRS. The deep soil provisions require half of the landscaped area to contain deep soil.³ The canopy cover provisions included in PC 12 require the planting of trees to provide anticipatory canopy cover of 20% of the site area.⁴ In other words, while deep soil and canopy cover requirements affect the *composition* of the landscaped area, they are not obviously additional to it. As such, it is not clear to me that the deep soil and canopy cover requirements would hinder economic growth, development capacity or employment.

Secondly, it is worth pointing out that any decision to remove these plan provisions will not be without cost. If soil is unavailable to help soak up rainwater, then it may well be necessary for traditional stormwater infrastructure to be upsized. Similarly, if sufficient tree canopy is unavailable for cooling, then households may well find themselves facing higher air conditioning bills. In my view, these trade-offs deserve close attention before any decisions are made.

Kind regards



Rt Hon Simon Upton
Parliamentary Commissioner for the Environment
Te Kaitiaki Taiao a Te Whare Pāremata

¹ Resource Management Act 1991, s 360I(b).

² This requirement is reduced to 10% in the high-density residential zone.

³ Deep soils are defined as "well-structured nutrient-holding soils, with a range of particle sizes, and gradation in soil properties with depth. Ranging from 400 mm to 1 m in depth, they offer space for healthy root development, nutrient absorption, and moisture retention ..."

⁴ This requirement reduces to 10% in line with the smaller landscaping area in the high-density residential zone.