

Before Hearing Commissioners

under: the Resource Management Act 1991

in the matter of: notices of requirement and resource consent applications by the NZ Transport Agency and Hamilton City Council for the Southern Links Project

Rebuttal evidence of Tony James Denton (city infrastructure and project need) on behalf of **Hamilton City Council** (as Requiring Authority)

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**REBUTTAL EVIDENCE OF TONY JAMES DENTON ON BEHALF OF
HAMILTON CITY COUNCIL (AS REQUIRING AUTHORITY)**

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REBUTTAL EVIDENCE OF TONY JAMES DENTON ON BEHALF OF HAMILTON CITY COUNCIL (AS REQUIRING AUTHORITY)

INTRODUCTION

- 1 My full name is Tony James Denton.
- 2 I have the qualifications and experience set out in paragraphs 2 to 5 of my statement of evidence-in-chief (*EIC*) dated 12 June 2014.
- 3 My rebuttal evidence is given in support of notices of requirement (*NORs*) and applications for resource consents lodged by the NZ Transport Agency (*the Transport Agency*) and Hamilton City Council (*HCC*) on 9 August 2013 in relation to the construction, operation and maintenance of the Southern Links Project (*Project*).
- 4 In this statement of rebuttal evidence, I respond to the relevant sections of evidence of the following:
 - 4.1 Ian Johnson (Environmental Consultant), on behalf of Alan Tsai et al. (16).
 - 4.2 Peter Skilton (Planner), on behalf of Shona and Grant Mackintosh (27).
 - 4.3 Dave Serjeant (Planner), on behalf of Adare Company Ltd (52).
 - 4.4 Ida Dowling (Transportation Engineer), on behalf of Adare Company Ltd (52).
- 5 The fact that this rebuttal statement does not respond to every matter raised in the evidence of submitter witnesses within my area of expertise should not be taken as acceptance of the matters raised.

RESPONSE TO EXPERT EVIDENCE OF SUBMITTERS

Ian Johnson (Alan Tsai et al.)

- 6 Mr Johnson¹ refers to parts of my EIC where I comment on matters that would influence how much of his clients' land would be acquired by HCC².
- 7 In response, I do not consider it necessary to identify the ultimate extent of land that may be purchased as a consequence of the acquisition provisions under the Public Works Act (*PWA*). Confirmation of the extent of land that HCC must ultimately acquire

¹ Para 3.8, Evidence of Mr Johnson (24 June 2014).

² Para 50, EIC of Mr Denton (12 June 2014).

occurs at the time of purchase. This is appropriate as it allows for the consideration of all relevant matters at that point in time. My EIC³ describes an important consideration (access severance) which, if the purchase process were underway today, would determine what land HCC would be required to purchase.

- 8 The NOR boundary identifies the land necessary to achieve the purpose of the designation⁴. The land the submitter seeks to be included within the NOR boundary is not required for the designation purpose (i.e. it is not necessary for transportation infrastructure or associated stormwater devices).
- 9 Mr Johnson⁵ refers to uncertainty regarding securing necessary funding to acquire land beyond the designation boundary.
- 10 In response, I refer to my EIC⁶ where I state that future Long Term Plans (*LTP*) will need to include funding for land acquisition. This, by necessity, will need to include all costs associated with the Project, including an allowance for situations where HCC would be required to purchase land that may actually fall outside the NOR boundary.

Peter Skilton (Shona and Grant Mackintosh)

- 11 Mr Skilton⁷ refers to the lack of certainty regarding whether HCC would purchase the Mackintosh land in its entirety and the timing of acquisition.
- 12 My EIC already outlines my expectations with respect to the purchase of the Mackintosh land⁸.
- 13 Legal submissions will respond to matters regarding the PWA and in particular the matters of scope. Notwithstanding, I provide the following comments.
- 14 The timing for property acquisition will generally be influenced by the desires of individual property owners, any legal obligations of HCC to acquire property, and proposed timing of physical works. It is my expectation and experience that most purchases which are associated with a long term designation are negotiated with land owners on a willing seller, willing buyer basis as opposed to compulsory purchase under the PWA. Individual land owners have the opportunity to discuss personal aspirations with HCC which may be used to better inform the programming of funding and purchase

³ Para 50.1, EIC of Mr Denton (12 June 2014).

⁴ Notice of Requirement to Hamilton City Council, (7 August 2013).

⁵ Para 3.9, Evidence of Mr Johnson (24 June 2014).

⁶ Para 15, EIC of Mr Denton (12 June 2014).

⁷ Para 6.2.1 and 6.2.2, Evidence of Mr Skilton.

⁸ Para 50.3, EIC of Mr Denton (12 June 2014).

priorities through subsequent LTP processes. My expectations would be that, given the scale of this Project, the funding for meeting designation conditions (once confirmed), property purchase and construction would be split over multiple years within future LTP's. As a matter of general principle HCC would not seek to purchase property until it was required closer to proposed construction.

Dave Serjeant (Adare Company Ltd)

- 15 The rebuttal evidence of Mr Eccles will respond to Mr Serjeant's comments⁹ on the proposed NOR conditions as they relate to the potential form of the Southern Links roading and staging.
- 16 Mr Serjeant states¹⁰ that he can find no basis for my statements in paragraphs 66 to 67 of my EIC regarding expectations for the staging of roading and wastewater infrastructure. I direct Mr Serjeant to footnote 9 on page 13 of my EIC referencing 3.4.5 of the Hamilton Proposed District Plan and further, to Appendix 6.9-V on page Rule 6.9-11 of the Operative District Plan, both of which I include in **Annexure A** to my rebuttal evidence.
- 17 Mr Serjeant does not appear to have understood¹¹ my EIC regarding the financial commitment of HCC, the LTP and 30 year plan process¹² and mistakenly draws the conclusion that HCC does not envision financial commitment to the Project until at least 2025. This may arise from unfamiliarity regarding the 30 year plan concept and how it relates to Stages 1 and 2 of the Peacocke Structure Plan (PSP) and the 2015-2025 LTP¹³. The following may clarify the situation.
- 18 My EIC does not state that Stage 1 provides for growth until 2025. Rather I make the point that the current 2012-2022 LTP identifies funding for 80% of Stage 1, and that the balance of funding required would need to be included within the 2015-2025 LTP¹⁴.
- 19 This situation arose from the timing misalignment between the preparation and confirmation of the 2012-2022 LTP and the resolution of appeals to Variation 14 to the (then) Proposed District Plan¹⁵. The settlement version of Variation 14 increased the area of Stage 1, for which infrastructure funding had not been recognised within the 2012-2022 LTP.

⁹ Para 13, Evidence of Mr Serjeant (27 June 2014)

¹⁰ Para 18, *ibid*

¹¹ Para 23, *ibid*

¹² Para 14, 34-37, EIC of Mr Denton (12 June 2014)

¹³ I note that Para 37 of my EIC mistakenly refers to a 2014-2025 LTP, this should read 2015-2015 LTP.

¹⁴ Para 34-35, EIC of Mr Denton (12 June 2014)

¹⁵ Refer to Annexure C to the EIC of Mr Eccles (12 June 2014)

- 20 Apart from costs for the NOR process¹⁶, the current 2012-2022 LTP does not include funding for the Project or other infrastructure needed for Stage 2 of the PSP area.
- 21 Assessment and funding allocations for the infrastructure to support Stage 2 has yet to be completed by HCC because it requires confirmation by Councillors and an opportunity for public submissions to the 2015-2025 LTP in accordance with the Local Government Act.
- 22 The 30 year plan provides a longer term infrastructure and funding context to inform the LTP process.
- 23 Unless determined otherwise through the LTP process I would not expect that HCC would be constructing the Project within the 2015-2025 LTP timeframe. However funding would be required over this period to acquire land and address designation conditions¹⁷. The 30 year plan would recognise the construction timing and cost component post 2025. As LTP's are progressively reviewed every three years the construction funding of components would gradually make it into the 10 year timeframes of future LTPs.
- 24 Mr Serjeant refers to communication with Adare regarding HCC's expectation that, should Adare wish to develop its part of the PSP area, it will need to finance the necessary infrastructure and alleges that HCC will take no financial responsibility for this infrastructure in the short to medium term¹⁸.
- 25 Subject to paragraph 23 above, I expect the 2015-2025 LTP will need to include funding commitments for the Project, but not the costs of construction. If Adare wishes to develop part of the PSP area ahead of the relevant LTP programme then it is my understanding that Adare would need to enter into a Private Developer Agreement with HCC to fund infrastructure (as an 'unfunded project') in a cost neutral manner for HCC in accordance with HCC's Growth Funding Policy (July 2013). A copy of the Growth Funding Policy is included in Annexure B to my rebuttal evidence.
- 26 This situation is reflected in the final sentence of 3.4.5 b) of the Proposed District Plan¹⁹ (noted below) omitted from the quote in paragraph 24 of Mr Serjeant's evidence:

"However the development of Stage 2 could be brought forward if the necessary bulk infrastructure and transport

¹⁶ HCC and the NZ Transport Agency have a multi-party funding agreement for the costs associated with completing the Southern Links NOR process. HCC's share of these costs is approximately \$2.25m which is funded through the current and previous LTPs.

¹⁷ Para 15, EIC of Mr Denton (12 June 2014).

¹⁸ Para 27, Evidence of Mr Serjeant (27 June 2014).

¹⁹ Also Appendix 6.9-V of the Operative District Plan (refer Annexure A).

networks are constructed outside of the Long Term Plan programme.”

- 27 Legal submissions will respond to Mr Serjeant’s comments in relation to s168A(a) of the RMA²⁰.

Ida Dowling (Adare Company Ltd)

- 28 The rebuttal evidence of Mr Eccles will respond to Ms Dowling’s comments on the proposed NOR conditions as they relate to the potential form of the Southern Links roading and staging.
- 29 While the rebuttal evidence of Mr Lion-Catchet will respond to transportation matters, I respond to paragraphs 27 to 29 of Ms Dowling’s evidence regarding staging involving the construction of the Waikato River bridge. My expectations stated in paragraphs 64 to 67 of my EIC reflect those of both the Operative and Proposed District Plan (refer Annexure A) which considers strategic transportation and wastewater infrastructure needs.

CONCLUSIONS

- 30 I have read the statements of expert evidence provided by submitters relevant to my area of expertise. That evidence has not caused me to depart from the opinions expressed in my EIC, and I reconfirm the conclusions reached in my EIC.

Tony Denton

8 July 2014

²⁰ Para 22, Evidence of Mr Serjeant (27 June 2014).

Annexure A

Proposed District Plan (Notified 2012)

3.4.5 Indicative Infrastructural Development Programme

a) Council's Long Term Plan sets out the infrastructure programme for the City. The infrastructure provision for Peacocke detailed in the Long Term Plan is a programme of roading upgrades, a wastewater storage facility or similar wastewater solution, and extension of water and stormwater services to the area shown as Stage 1 on the Staging plan contained in Volume 2, Appendix 2, Figure 2-2.

b) Stage 2 of the growth cell does not have an established infrastructure programme within the Long Term Plan. Generally however, it is anticipated that over a 20-25 year period once the necessary bulk trunk infrastructure and transport network has been established (i.e. the installation of a bulk wastewater connection to the existing reticulated network to the north of the Waikato River, and a bridge and transport corridor connection constructed across the Waikato River) to join Peacocke to the City's existing infrastructure networks, development will start. However the development of Stage 2 could be brought forward if the necessary bulk infrastructure and transport networks are constructed outside of the Long Term Plan programme.

c) The development of Stage 2 is to be staged from the north in the vicinity of the Water Treatment Plant and then proceed in a southerly direction along Peacocke Road

Operative District Plan (2012)

Appendix 6.9-V Indicative Infrastructural Programme for Peacocke

1 Indicative Infrastructural Development Programme

Council's Long Term Plan sets out the infrastructure programme for the city. The infrastructure provision for Peacocke detailed in the Long Term Plan is a programme of roading upgrades, a wastewater storage facility or similar wastewater solution, and extension of water and stormwater services to the area shown as Stage 1 on the Staging of Urban Development Within Peacocke plan contained in Appendix 6.9-VI.

Stage 2 of the growth cell does not have an established infrastructure programme within the Long Term Plan. Generally however it is anticipated that over a 20-25 year period once the necessary bulk trunk infrastructure and transport network has been established (i.e. the installation of a bulk waste water connection to the existing reticulated

network to the north of the Waikato River and a bridge and transport corridor connection been constructed across the Waikato River) to join Peacocke to the city's existing infrastructure networks development will start. However the development of Stage 2 could be brought forward if the necessary bulk infrastructure and transport networks are constructed outside of the Long Term Plan programme.

The development of Stage 2 is to be staged from the north in the vicinity of the Water Treatment Plan and then proceed in a southerly direction along Peacocke Road.

Annexure B
HCC Growth Funding Policy (July 2013)

GROWTH FUNDING POLICY

PURPOSE

The purpose of this Growth Funding Policy is to:

- (a) direct Council decision-making in respect of growth projects and associated infrastructure where those projects are not aligned with Council's 10-Year Plan; and
- (b) align Council decision making with the purpose of local government as defined in 10(1)b of the Local Government Act 2002: to meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses.

CONTENTS

1. Introduction
2. Policy Scope
3. Strategic Alignment
4. Policy

REVISION HISTORY

<i>Revision #</i>	<i>Policy Sponsor</i>	<i>Operative</i>	<i>Council or Committee Decision</i>	<i># TRIM Reference</i>	<i>Related Operating Guidelines</i>
Final	General Manager Performance	1 July 2013	Council	D-806540	None

1 INTRODUCTION

- 1.1 One of the ways Council manages and facilitates growth is through its 10 Year Plan capital programme (“10-Year Plan”). The 10-Year Plan identifies and sequences the capital projects to be funded by Council during the life of the 10-Year Plan (“Funded Projects”).
- 1.2 Council’s funding and financial policies, including its revenue and financing policy, and its development contributions policy, establish the main revenue sources for Funded Projects as set out in the 10-Year Plan.
- 1.3 In accordance with its financial strategy and the requirements of the Local Government Act 2002, Council cannot incur significant capital or development operating expenditure in respect of growth related projects unless they are funded projects provided for in the 10-Year Plan.
- 1.4 Occasionally Council may be requested to provide support or enable developments and the provision of associated public or private infrastructure that are:
 - (a) not funded projects; or
 - (b) funded projects but which are proposed to commence earlier than the sequencing and timing established in the 10-Year Plan; and/or
 - (c) funded projects but which are now proposed to occur beyond the scale, scope and cost prescribed or anticipated for those projects in the 10-Year Plan;and in these respects are considered unfunded growth projects (“Unfunded Growth Projects”).
- 1.5 Council requires a policy to direct its decision-making on how to manage Unfunded Growth Projects. This policy provides that direction.

2 POLICY SCOPE

- 2.1 The scope of this policy is to direct Council in its decision-making on how to manage Unfunded Growth Projects to meet the overarching purposes of local government, as set out in the purpose description above in a manner which has no adverse impact on its 10-Year Plan and long term financial sustainability.

3 STRATEGIC ALIGNMENT

3.1 This policy assists in the delivery of Council’s outcomes and goals set out below:

PROSPEROUS AND INNOVATIVE	OUTSTANDING CITY LEADERSHIP	PEOPLE LOVE LIVING HERE
<ul style="list-style-type: none"> ▪ Hamilton has a strong, productive economy and we build on our economic strengths. ▪ We have a thriving CBD. ▪ It’s easy to do business here. ▪ Our city grows and prospers in a sustainable way. 	<ul style="list-style-type: none"> ▪ The city is led by effective, open and responsive governance. ▪ Council’s finances are sustainable for the long term. ▪ We operate efficiently and provide exceptional service. ▪ The city takes a leadership role regionally and nationally. 	<ul style="list-style-type: none"> ▪ Hamilton embraces the Waikato River and it is the focal point of our city. ▪ We value, preserve and protect Hamilton’s natural, green environment. ▪ Our city is attractive, well-designed and compact with outstanding architecture and distinctive public spaces. ▪ Our city is a fun place to live with a vibrant Arts scene. ▪ Hamilton is a safe city. ▪ It’s easy to get around. ▪ We celebrate our people and many cultures.

4 POLICY

4.1 Council will enable Unfunded Growth Projects to occur provided agreement is entered into between Council and the developer(s) responsible for the Unfunded Growth Project (‘Private Developer Agreement’).

4.2 All Private Developer Agreements must be approved by Council and where necessary shall be subject to Council’s Annual Plan or 10-Year Plan decision making processes.

4.3 Private Developer Agreements will address the following criteria:

4.3.1 Alignment with the city and sub-regional growth and land use strategies.

- (a) The development aligns with Council’s long term growth planning, land use and development strategies, including but not limited to the Proposed District Plan, Hamilton Urban Growth Strategy and Future Proof; and
- (b) The development meets the requirements of the Proposed Waikato Regional Policy Statement.

4.3.2 Integrated and sustainable infrastructure.

- (a) All resource consent conditions and designation conditions are, or will, be complied with.
- (b) The developer is responsible for the provision of all infrastructure required, regardless of whether it vests in Council or not.
- (c) The sizing and design of the development and its associated infrastructure is the most efficient way to deliver on Council’s intended strategic outcomes for infrastructure at a City and Sub-Regional level.

- (d) The infrastructure provided by the developer meets Council's required standards and is integrated with Council's existing and intended infrastructure network.
- (e) Any calculations relating to upsizing infrastructure requested and payable by Council to the developer(s) will be made on an incremental contribution basis not a volumetric or proportional basis.
- (f) Any impacts on City infrastructure both within and outside of the development area, including head works and networks, levels of service and utilization of planned network capacity are addressed by the developer.

4.3.3 **Financial neutrality and overall fairness/equity:**

- (a) Unfunded Growth Projects including the consideration and negotiation of private developer agreements, should not increase Council's expenditure net of new revenue beyond that provided for in Council's 10-Year Plan.
- (b) Council's capital expenditure programme, revenue and debt parameters and the overall long-term financial sustainability of the City is not compromised.
- (c) The extent to which new growth created by the Unfunded Growth Projects or development compromises cost recovery for current and future development contribution debt is adequately mitigated by financial or other offsetting benefits to the Council.
- (d) Unfunded Growth Projects which impose or are likely to impose financial loss on Council including those which extend outside the 10-Year Plan parameters shall be considered from an economic perspective using life cycle cost/benefit analysis.

4.3.4 **Recognition of Benefits**

- (a) The Private Developer Agreement shall recognise that development associated with Unfunded Growth Projects brings both costs and benefits to the city.
- (b) In addition to the life cycle cost/benefit analysis required under clause 4.3.3(d) above, Council will have regard to relevant broader economic costs and benefits to the city that result as a consequence of the development.
- (c) Benefits derived from Council requiring upsizing of infrastructure to either meet Council's strategic outcomes or accommodate growth unrelated to the development will be recognised in the Private Developer Agreement.
- (d) Development associated with Unfunded Growth Projects will create additional demand on city infrastructure and will attract development contributions under Council's Development Contributions Policy. The total calculated Development Contributions may be the subject of a remission under clause 12 of the Development Contributions Policy in recognition of relevant benefits derived from development associated with Unfunded Growth Projects. The value of any remission will be determined by Council and recorded in any Private Developer Agreement.