

Plan Change 12 – Enabling Housing: Part 2 Section 32 Evaluation

Appendix 2.4 Qualifying Matters Assessment

Sections 77I, 77O, 77J, 77K, 77P and 77Q of the HSAA

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1. Introduction

This assessment addresses the accommodation of Qualifying Matters as part of the response to the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (HSAA) and the requirement to incorporate the Medium Density Residential Standards (MDRS) and to give effect to the intensification requirements under Policy 3 of the National Policy Statement on Urban Development 2020 (NPS-UD). It should be read in conjunction with Appendix 2.2 – Assessment of Options and Appendix 2.3 – Evaluation of Objectives, Policies and Rules; as well as Appendix 2.5 Infrastructure capacity report for the assessment of Te Ture Whaimana o Te Awa o Waikato (Vision & Strategy) as a Qualifying Matter.

The assessment comprises two parts. The first part of the assessment outlines all existing Qualifying Matters listed in sections 77I (a-i) and 77O (a-i) and provides an assessment in relation to the relevant requirements set out in Section 77K and Section 77Q of the HSAA, including:

- a. Identifying the location where the qualifying matter applies
- b. Describing why one or more qualifying matters apply to that location
- c. Specifying the alternative height and density standards proposed for that area
- d. Providing a general assessment for a typical site in the areas identified, the level of development prevented by accommodating the existing qualifying matters in comparison to the level of development that would have been permitted by the MDRS and Policy 3.

Part two of the assessment focuses on the new Qualifying Matters, with the relevant requirements in accordance with Section 77J and Section 77P, including:

- a. A description of how modifications to the MDRS as applied to the relevant locations are limited to only those modifications necessary to accommodate qualifying matters and how they apply to any spatial layers relating to overlays, precincts, specific controls, and development areas, including:
 1. any ODP spatial layers; and
 2. any new spatial layers proposed for the ODP.
- b. Explaining the justification and rationale for the area being subject to a qualifying matter
- c. The justification and rationale of the level of development permitted by the MDRS or policy 3 is incompatible with that area
- d. An assessment of the impact that limiting development capacity, building height, or density (as relevant) will have on the provision of development capacity
- e. An assessment of the costs and broader impacts of imposing those limits

1.1 Qualifying Matters for Hamilton City Operative District Plan (ODP)

The Qualifying Matters have been identified based on the values, purposes and environmental risks that the Hamilton City Operative District Plan (ODP) currently recognises. As part of Plan Change 12 (PC12), the ODP was reviewed to identify all Qualifying Matters for Hamilton that fit into the HSAA definition.

Some Qualifying Matters are not fully included in the current ODP, for example, biodiversity and ecological values for flora and fauna, historical heritage values for some specific areas, and for matters to give effect to Vision & Strategy. These matters will be assessed further through Plan Change 9 (notified version) and PC12.

The identified Qualifying Matters for Hamilton have been listed in Table 1 Qualifying Matters for Hamilton. The table differentiates the Qualifying Matters that are relevant and should be considered in

relation to MDRS and intensification requirements of NPS-UD Policy 3, as well as the existing and new Qualifying Matters.

Qualifying Matters to MDRS Requirements	
Existing Qualifying Matters operative in the ODP	<ul style="list-style-type: none"> • A matter of national importance under s6 of the Resource Management Act 1991 (RMA) <ul style="list-style-type: none"> ○ S6(a) preservation and protection of Peat Lake and Wetlands and Peat Lake Catchment ○ S6(h) management of significant risks from Waikato River and Gully Hazard and Stability Area ○ S6(h) management of significant risks from all types of Flood Hazard Areas • A matter required for the purpose of ensuring the safe or efficient operation of nationally significant infrastructure <ul style="list-style-type: none"> ○ National Grid Yards and National Grid Corridors ○ Horizontal Obstacle Limitation Surface ○ Outer Edge Conical Obstacle Limitation Surface ○ Waikato Expressway • The need to give effect to a designation or heritage order
New Qualifying Matters identified in PC12	<ul style="list-style-type: none"> • A matter of national importance under s6 of the RMA <ul style="list-style-type: none"> ○ S6(c) protection of Significant Natural Areas (as notified in Plan Change 9) ○ S6(e) the relationship of Maori with archaeological sites (as notified in Plan Change 9) ○ S6(f) the protection of Built Heritages (as notified in Plan Change 9) ○ S6(f) the protection of Historic Heritage Areas (as notified in Plan Change 9) • A matter required to give effect to Te Ture Whaimana o Te Awa o Waikato—the Vision and Strategy for the Waikato River
Qualifying Matters to Intensification Policy 3	
Existing Qualifying Matters operative in the ODP	<ul style="list-style-type: none"> • A matter of national importance under s6 of the RMA <ul style="list-style-type: none"> ○ S6(a) preservation and protection of Peat Lake and Wetlands and Peat Lake Catchment ○ S6(h) management of significant risks from Waikato River and Gully Hazard and Stability Area ○ S6(h) management of significant risks from all types of Flood Hazard Areas • A matter required for the purpose of ensuring the safe or efficient operation of nationally significant infrastructure <ul style="list-style-type: none"> ○ National Grid Yards and National Grid Corridors ○ Horizontal Obstacle Limitation Surface ○ Outer Edge Conical Obstacle Limitation Surface ○ Waikato Expressway • The need to give effect to a designation or heritage order • Open space provided for public use <ul style="list-style-type: none"> ○ Sports and Recreation Open Space Zone ○ Neighbourhood Open Space Zone ○ Natural Open Space Zone

	<ul style="list-style-type: none"> ○ Destination Open Space Zone ○ Natural Open Space – Waikato River and Lakes ● The requirement in the NPS-UD to provide sufficient business land suitable for low density uses to meet expected demand <ul style="list-style-type: none"> ○ Business Zones 1 – 6 ○ Industrial Zone
New Qualifying Matters identified in PC12	<ul style="list-style-type: none"> ● A matter of national importance under s6 of the RMA <ul style="list-style-type: none"> ○ S6(c) protection of Significant Natural Areas (as notified in Plan Change 9) ○ S6(e) the relationship of Maori with archaeological sites (as notified in Plan Change 9) ○ S6(f) the protection of built Heritages (as notified in Plan Change 9) ○ S6(f) the protection of Historic Heritage Areas (as notified in Plan Change 9) ● A matter required to give effect to Te Ture Whaimana o Te Awa o Waikato—the Vision and Strategy for the Waikato River

1.2 Modification of MDRS and Intensification Policy 3

Any modifications to the MDRS and Intensification Policy 3 requirements will be only to the extent required to accommodate the Qualifying Matters and it will be justified and accompanied by relevant assessments required under the Act. In accordance with section 77I and section 77O of the HSAA:

[Section 77I] A specified territorial authority may make the MDRS and the relevant building height or density requirements under policy 3 less enabling of development in relation to an area within a relevant residential zone only to the extent necessary to accommodate 1 or more of the following qualifying matters that are present: (...).

[Section 77O] A specified territorial authority may modify the requirements of policy 3 in an urban non-residential zone to be less enabling of development than provided in those policies only to the extent necessary to accommodate 1 or more of the following qualifying matters that are present: (...)

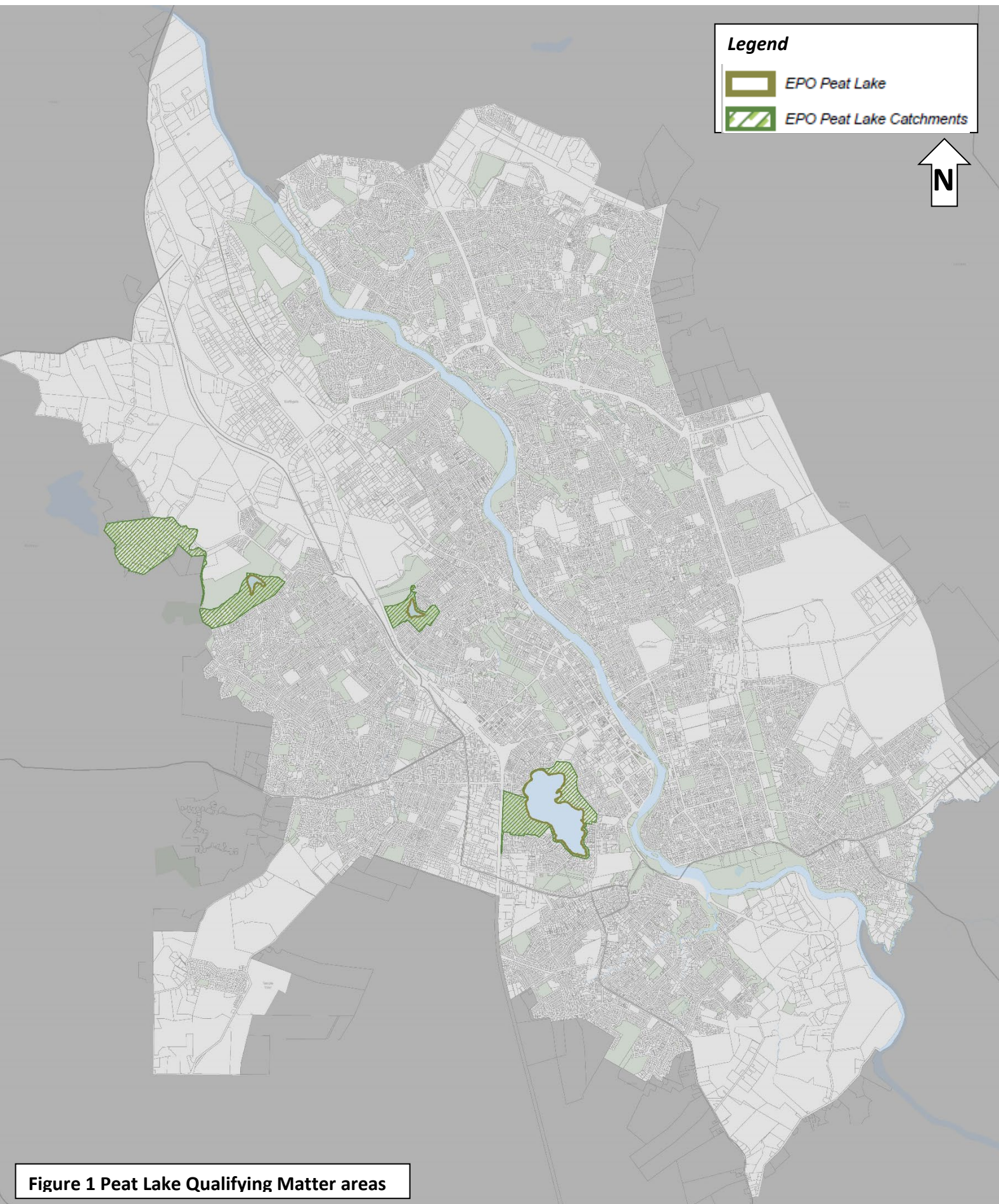
Accordingly, Hamilton City Council (HCC) may modify the density standards under the MDRS to accommodate one or more Qualifying Matters that are present, which include:

- Permitted Activity Status for MDRS
- Number of residential units per site
- Building height
- Height in relation to boundary
- Setbacks
- Building coverage
- Outdoor living space (per unit)
- Outlook space (per unit)
- Windows to street
- Landscaped area

For the areas subject to requirements of Intensification Policy 3, HCC may modify the building height and/or the density requirements.

2. Existing Qualifying Matters

2.1 Peat Lake and Wetlands and Peat Lake Catchment



Protection of Peat Lake and Wetlands and Peat Lake Catchment S6(a)

This Qualifying Matter applies to the Peat Lake and Peat Lake Catchments areas mapped in Figure 1 above which would otherwise be subject to the requirement to implement the MDRS and Policy 3 of the NPS-UD.

Existing planning provisions and policy framework in the ODP

Peat Lake and Peat Lake Catchment areas are addressed in Chapter 20 Natural Environment of the ODP. The extent of the peat lake and its catchment is illustrated on the Features Map of the ODP.

There are objectives and policies in the ODP, and there are bespoke planning controls for buildings and activities within the Peat Lake and its catchment, under Rule 20.4.1. These planning controls include:

- *Building setback.*
- *Impermeable Surfaces*
- *Vegetation Removal*
- *Earthworks (Including Clean Fill)*
- *Stormwater Disposal*

Why this qualifying matter applies to that location (Section 77K (1)(c) and Section 77Q (1)(c))

The ODP recognises that peat lakes and wetlands have been degraded or lost because of their modification or destruction for urban purposes, and that is likely to continue to occur if there is no adequate assessment and mitigation of potential effects¹.

Retaining the existing provisions to control land use activities undertaken around peat lake and wetland margins, within wider peat lake catchments, may result in potential economic costs and influence the feasibility of development. However, the degradation or loss of these natural features will result in their loss of ecological viability, and recreation and amenity values. It is therefore considered that the risks of retaining the existing provisions to ensure the recognition and protection of the peat lake and wetlands, and their wider catchment, outweigh the risks of the need to extend densities and/or heights that would be enabled by implementing the MDRS and Policy 3 in these locations.

Furthermore, it should be recognised that the protection of peat lakes and wetlands is dependent upon managing the effects of activities within the surrounding catchment, as well as around the lake margins, which will be assessed and considered through the relevant resource consent process. By not recognising the environmental, social and cultural values of these natural features and their contribution to biodiversity, there is a risk that HCC would fail to give effect to s6(a) and s6(c) of the RMA.

Evaluation of reasonably practicable options

Option	1. Status quo – setback limit with a consenting framework for non-compliance (Preferred)	2. No limits in the qualifying matter area
Relevance	This option will ensure the ecological, biodiversity and recreational values and significance of Peat Lake as one of the scheduled significant natural areas can be protected.	This option will potentially destroy and damage the ecological, biodiversity and recreational values and significance of Peat Lake.

¹ Hamilton City Council, *Hamilton City Operative District Plan (ODP) Chapter 20*. Hamilton City Council. 2017.

Achievability	The building setback limits already exist and provide management and protection.	The building setback limits already exist. This option will require a change to the existing framework.
Reasonableness	The status quo enables the features and values of the Peak Lake to continue to be protected and maintained for ecological, environmental and social wellbeing.	By not limiting setbacks through the ODP, the affected area will potentially be built out. This will potentially damage or destroy the existing eco-system of the peat lake.
Evaluation of Preferred Option Against Objective(s)		
Costs Reduce the developable areas and design options due to a greater building setback requirement.		
Benefits: The ecological, biodiversity and recreational values and significance of Peat Lake as one of the scheduled significant natural areas can be protected. The degraded and/or loss of peat soils and wetlands due to urban redevelopment and infill development can be avoided.		
Risk of acting or not acting The risks associated with acting are: <ul style="list-style-type: none"> Restricting development potential and reducing development flexibility due to different standards. Increased development costs due to design considerations. The risks associated with not acting are: <ul style="list-style-type: none"> The features and elements in relation to the existing peat lake and its wider catchment, as a matter that are of national significance, are destroyed or lost due to cumulative effects resulting from inappropriate developments. There is sufficient information regarding the important values of these existing Qualifying Matters. The risks of adopting the existing provisions and rules as a way to modify MDRS and Policy 3 to ensure the protection, maintenance, and where possible, the enhancement of these Qualifying Matters, are far outweighed by the risks of not acting.		
Effectiveness The existing policies and methods are effective in achieving the objective because they provide a framework that reflects the specific setback requirements for development, on sites adjacent to the existing peat lake and its catchment, to protect and maintain the ecological, biodiversity and recreational values.		
Efficiency The existing policies and methods are efficient because they clearly identify the key requirements for the areas subject to the Peat Lake overlay.		
Alternative controls for MDRS and/or Intensification Policy 3 (Section 77K(1)(b))		
There are no applicable density and/or building height provisions for Peat Lake and Peat Lake Catchment in the ODP. The existing setback requirements in the ODP address mitigation of any potential adverse effects on the peat lake and wetlands. Therefore, it is proposed that the existing setback requirements in the ODP be retained in the relevant residential areas mapped in Figure 1 as being subject to the Peat Lake overlay.		
Standards	MDRS	Alternative

Setbacks	Front yard = 1.5m Side yard = 1m Rear yard = 1m	The minimum building setback from the margin of any Peat Lake or Wetland shall be 50m plus the relevant setback requirement for the relevant zone.
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For Policy 3, there are no applicable density and/or building height provisions for Peat Lake and Peat Lake Catchment in the ODP. As this is an existing qualifying matter, the s32 of the ODP has already demonstrated that no specific density and/or building height control is required to protect the peat lakes and wetlands. Therefore, no alternative controls are proposed for Intensification Policy 3.

Assessment for the level of development enabled by MDRS and/or Policy 3 Section 77K(1)(d)

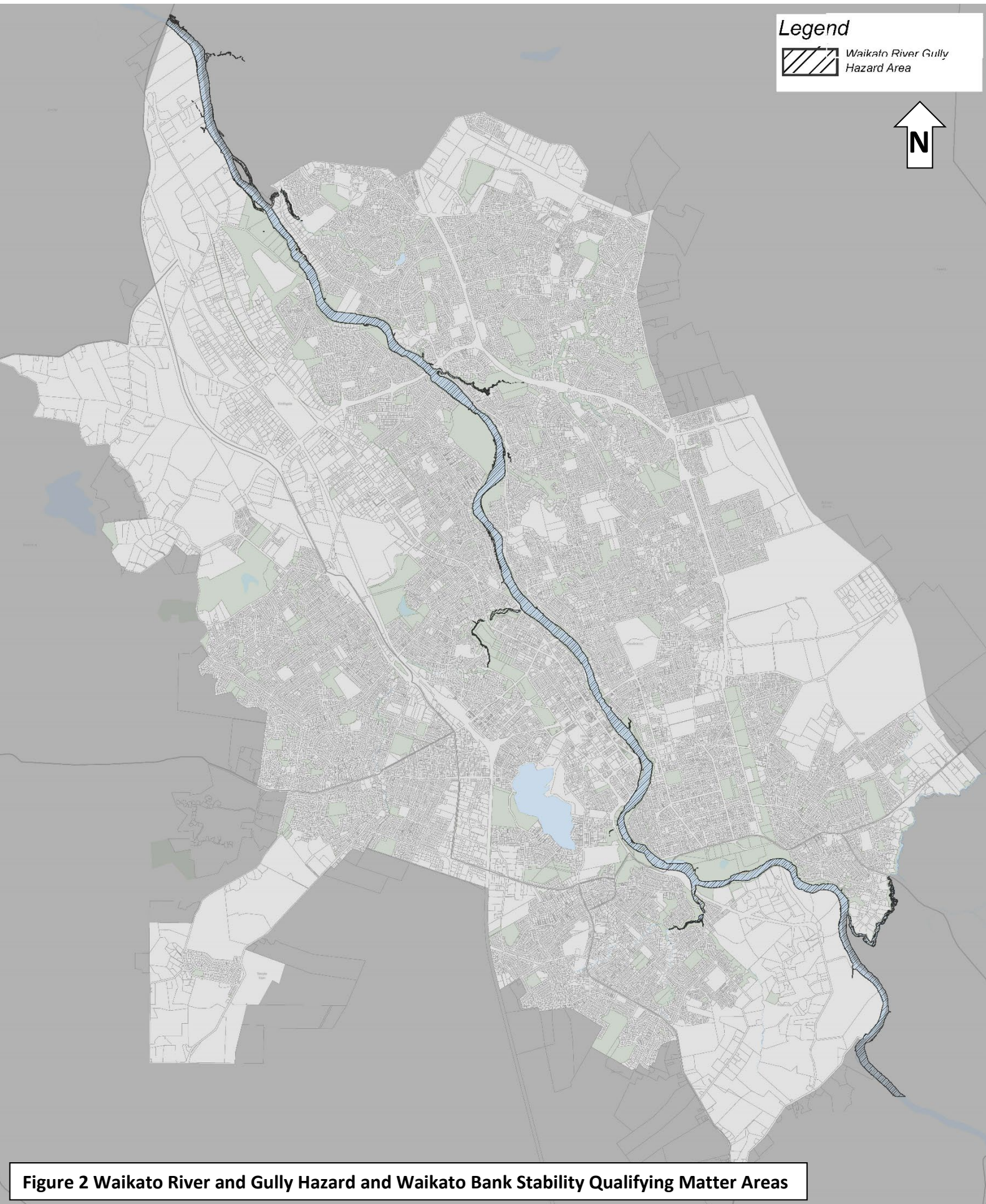
The ODP requires a minimum 50m setback plus the relevant setback requirement of the relevant residential zones from its margin. This means residential sites affected by the peat lake and wetland overlay will require to have 51m building setback for their side and rear yards, comparing to 1m setback as per the MDRS.

Accommodating this Qualifying Matter will require design considerations to accommodate the setback, which may require site-specific considerations in relation to the design and layout of the development. The additional building setback requirement ultimately require proposed buildings to be located further away from the margin of the peat lake or wetlands, which have the potential to affect the level of development enable by MDRS. However, the level of development prevented by this Qualifying Matter will be determined on a case-by-case scenario as this can be influenced depending on the final building setback as required for that particular proposal. As such, it is not possible to calculate the exact level of development that would be prevented by accommodating this qualifying matter.

For developments that cannot comply with this standard, there is still a resource consenting pathway (through a restricted discretionary activity consent) which may enable reduced building setbacks in these areas where potential effects are evidenced to be appropriate. The discretion is on the ecological viability of the peak lake and wider peat lake catchment, as well as on the impacts of drainage (e.g., lowering of the water table) and water quality of the lake.

In terms of Policy 3, there are no alternative density or building height controls to implement Policy 3 (c)(ii) to accommodate this qualifying matter. However, the setback requirement will likely result in limitations on the developable areas and preclude certain areas from development. The same rationale applies that without the setback there are unacceptable impacts.

2.2 Waikato River and Gully Hazard and Waikato Bank Stability



Management of significant risks from Waikato River and Gully Hazard and Waikato Bank Stability S6(h)

This Qualifying Matter applies to the Waikato River and Gully Hazard and Waikato Bank Stability areas mapped area in Figure 2 above which would otherwise be subject to the requirement to implement the MDRS and Policy 3 of the NPS-UD.

Existing planning provisions and policy framework in the ODP

Waikato River and Gully Hazard areas are addressed in Chapter 22 Natural Hazards of the ODP. The extent of the gully network is illustrated on the Features Map of the ODP.

There are objectives and policies in the ODP, and there are bespoke planning controls for buildings and activities within the identified gullies and adjacent to the gullies. Resource consent as a Discretionary Activity will be required for the following activities that occur within the identified gullies:

- *New buildings*
- *Alterations or additions to buildings which result in: Greater building site coverage, or an increase in habitable floor area*
- *Earthworks not otherwise identified*
- *Any residential activities*

The rules following also contain bespoke controls for activities within and adjacent to the gullies:

- *Rule 22.4.1 Impermeable Surfaces*
- *Rule 22.5.1 Earthworks Ancillary to a Permitted Activity*
- *Rule 22.5.4 Removal of Trees and Other Vegetation*
- *Building setback of 6m from the edge of Gully Hazard overlay*

Why this qualifying matter applies to that location (Section 77K (1)(c) and Section 77Q (1)(c))

The ODP emphasises that the management of natural hazards in the ODP is to avoid situations where people put themselves, their properties and the environment at an unacceptable level of risk from natural hazards.

Retaining the existing provisions for areas within the Gully Hazard overlays may result in potential economic costs and influence the feasibility of development. However, the slopes and soil types of the Waikato Riverbank and Gully systems potentially make these areas more susceptible to land instability (erosion, landslips and subsidence). There are safety benefits to maintaining the constraint. Continuing to apply control of the use, development and protection of land for the purpose of avoiding or mitigating adverse effects of natural hazards on, and minimising risk to people, property and the environment will ensure meeting specific legislative requirements regarding the function of territorial authorities.

Evaluation of reasonably practicable options

Option	1. Status quo – setback limit and consenting framework for certain activities and non-compliance (Preferred)	2. No limits in the qualifying matter area
Relevance	This option will ensure the natural hazard relating to the gullies are managed. It will also ensure the ecological, biodiversity and recreational values and significance of gullies can be protected.	This option may be unsafe to people and their properties due to the gully hazard.

Achievability	The consent requirement and setback limits already exist and provide for the management of gully hazard.	These limits already exist and this option will require a change to the existing framework.
Reasonableness	The status quo enables the potential adverse effects of natural hazard are avoided or minimized, and risk to people, property and the environment minimized, in particular for greater intensification development.	By not limiting through the ODP, the affected area will potentially be built out, which potentially subject to future erosion, land slips and subsidence.
Evaluation of Preferred Option Against Objective(s)		
Costs Financial and time costs to prepare applications for activities requiring consent and uncertainty over whether these would be approved. Development opportunities or flexibility may be restricted.		
Benefits: Provides certainty on which activities are considered appropriate or inappropriate in the various hazard areas (subject to standards). Adverse effects of natural hazard are avoided or minimized, and risk to people, property and the environment is minimized, in particular for greater intensification development. Provides a broad risk categorization that reflects the severity of natural hazards against the sensitivity of activities.		
Risk of acting or not acting The risks associated with acting are: <ul style="list-style-type: none"> Restricting development potential and reducing development flexibility due to different standards. Increased development costs due to design considerations. The risks associated with not acting are: <ul style="list-style-type: none"> The features and elements in relation to the existing gullies, as a matter that are of national significance, are destroyed or lost due to cumulative effects resulting from inappropriate developments. There is sufficient information regarding the important values of these existing Qualifying Matters. The risks of adopting the existing provisions and rules as a way to modify MDRS and Policy 3 to ensure the protection, maintenance and, where possible, the enhancement of these Qualifying Matters, are far outweighed by the risks of not acting.		
Effectiveness The existing policies and methods are effective in achieving the objective because they provide a framework that reflects the specific consent requirements and setback requirements for development on sites subject to the existing mapped gully hazards.		
Efficiency The existing policies and methods are efficient because they clearly identify the key requirements for the areas subject to the gully hazard overlay.		
Alternative controls for MDRS and Policy 3 (Section 77K (1)(b))		
There are no applicable density and/or building height provisions for Waikato River and Gully Hazard in the ODP. The existing management of natural hazards requirements avoid situations where people put themselves, their properties and the environment at an unacceptable level of risk from natural hazards, through the requirement of resource consent for certain activities and the minimum building setback		

standards. Therefore, it is proposed that the following requirements in the ODP be retained in the relevant residential areas subject to the Gully Hazard overlay (mapped in figure 2).

Standards	MDRS	Alternative
Activity Status	Permitted	Resource consent as a Discretionary Activity within the identified gullies for the following activities: <ul style="list-style-type: none"> • New buildings • Alterations or additions to buildings which results in: Greater building site coverage, or an increase in habitable floor area • Any residential activities
Setbacks	Front yard = 1.5m Side yard = 1m Rear yard = 1m	The minimum building setback from the margin of any gully hazard shall be 6m.

There are no applicable density and/or building height provisions for Waikato River and Gully Hazard in the ODP. As this is an existing qualifying matter, the s32 of the ODP has already demonstrated that no specific density and/or building height control is required for the management of natural hazards. Therefore, no alternative controls are proposed for Intensification Policy 3.

Assessment for the level of development enabled by MDRS and Policy 3 Section 77K (1)(d)

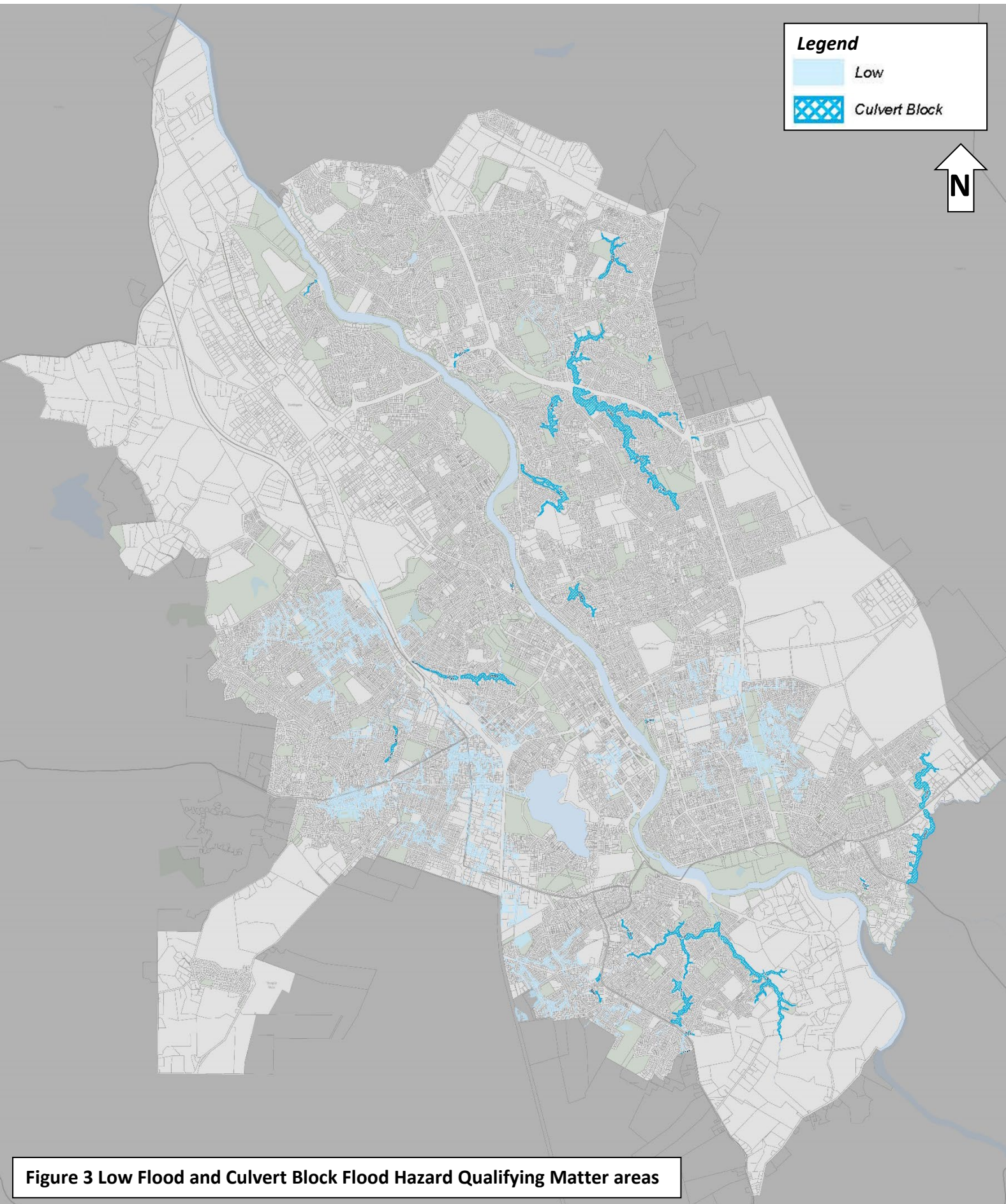
The ODP requires a resource consent for development within the hazard area or setback area as a Discretionary Activity for certain activities. Development is required to provide a 6m setback from the margin of the hazard area and a restricted discretionary activity consent will be required if this setback standard is not met. These controls exist already in the ODP.

The constraint only applies to a small portion of the overall area where MDRS could apply. It is considered the alternative provision will not significantly affect the level of development enabled by the MDRS, in comparison with the level of development that would have been enabled by MDRS.

The consent requirement means development within the gully hazard overlay will not be able to undertake MDRS without a resource consent. Depending on the scale and details of the proposal, the resource consenting process may adjust the constraint based on new information about individual site conditions. New residential activities and the construction of new buildings within the Waikato Riverbank and Gully Hazard area require resource consent as a Discretionary Activity. This triggers site-specific consideration for the development, in particular, on the management of natural hazards. The building setback provisions may require considerations in relation to the design and layout of the development to accommodate the 6m setback. This may result in a lesser level of development compared with the level of development that could have been enabled by MDRS and policy 3. As the constraint is in relation to a potential safety hazard there is merit in the control. However, the level of development prevented by this Qualifying Matter will be determined on a case-by-case scenario as this can be different and be influenced depending on the final design and layout of that particular proposal.

There is no alternative density or building height controls to implement Policy 3 (c)(ii) to accommodate this qualifying matter. However, similar to MDRS, the building setback requirement may result in a lesser level of development as it precludes certain areas from development. As the constraint is in relation to a potential safety hazard there is merit in the control.

2.3 Low Flood and Culvert Block Flood Hazards



Management of significant risks from Low Flood and Culvert Block Flood Hazards S6(h)

This Qualifying Matter applies to the Low Flood and Culvert Block Flood Hazard areas mapped in Figure 3 above which would otherwise be subject to the requirement to implement the MDRS and Policy 3 of the NPS-UD.

Existing planning provisions and policy framework in the ODP

Low Flood Hazard areas are addressed in Chapter 22 Natural Hazards of the ODP. The extent of the low flood and culvert flood hazards is illustrated on the Features Map of the ODP.

There are objectives and policies in the ODP, and there are planning controls for buildings and activities within the identified flood hazard areas.

The rules following also contain specific controls for activities within the identified Low Flood and Culvert Flood Hazard areas:

- Rule 22.4.1 *Impermeable Surfaces*
- Rule 22.5.2 *Earthworks Ancillary to a Permitted Activity*
- Rule 22.5.6 *New Buildings, Replacement or Rebuilding of Existing Lawfully Established Buildings, and Alterations or Additions to Existing Buildings*
 - *Displacement of Flood water and structural design*
 - *Minimum floor heights and freeboard*
- Rule 22.5.7 *Vulnerable Activities, Essential Services and Regionally Significant Infrastructure*

Why this qualifying matter applies to that location (Section 77K (1)(c) and Section 77Q (1)(c))

The ODP emphasises that the management of natural hazards is to avoid situations where people put themselves, their properties and the environment at an unacceptable level of risk from natural hazards². Hazard risk is the likelihood or probability of a natural hazard event occurring combined with its impact and based on the information and modelling available at that time to HCC, the ODP sets a policy direction based on the types and scales of hazards and the susceptibility of potential land use.³ The Low, Medium and High Flood Hazard Areas have been identified using flood hazard modelling and these Flood Hazard Areas show land predicted to be affected by river flooding, water ponding or overland flow paths in a storm event that has a 1% chance of occurring in any one year⁴.

Retaining the existing provisions for areas within the Low Flood and Culvert Block Flood Hazard is unlikely to result in potential economic costs and influence the feasibility of development the related constraints are detail with primarily through building and site design matters. These are already established in the ODP.

There remains a resource consenting pathway which may enable greater densities and/or building heights in areas where potential effects are considered to be appropriate on the basis of more detailed site investigations.

Evaluation of reasonably practicable options

Option	1. Status quo – specific standards and consenting framework for non-compliance (Preferred)	2. No limits or standards in the qualifying matter area
Relevance	This option will ensure that natural hazards are managed.	This option will potentially result in risk or become unsafe to people and their properties due to the flood hazard.

² Hamilton City Council. *Section 32 Analysis*. Hamilton City Council, 2012, pp. 583.

³ *Ibid.*, pp. 607.

⁴ *Ibid.*, pp. 610.

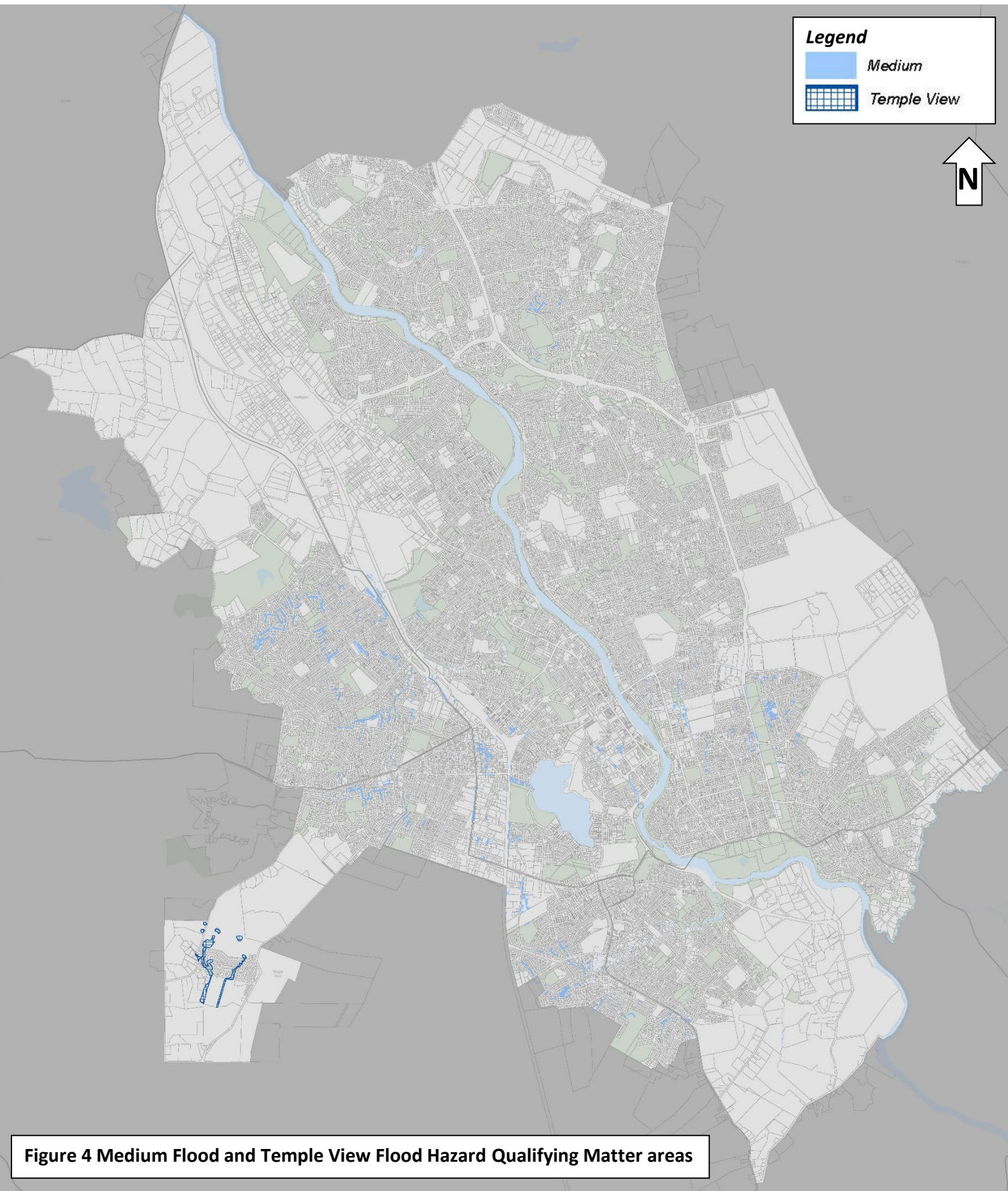
Achievability	The existing standards already exist to provide for the management of low flood and culvert block flood hazard.	These standards already exist and this option will require a change to the existing framework.
Reasonableness	The status quo enables the potential adverse effects of natural hazard are avoided or minimized, and risk to people, property and the environment minimized, in particular for greater intensification development.	By not limiting through the ODP, the affected area will potentially be built out.
Evaluation of Preferred Option Against Objective(s)		
Costs Financial and time costs to prepare applications for activities requiring consent and uncertainty over whether these would be approved. Development opportunities or flexibility may be restricted.		
Benefits: Provides certainty on which activities are considered appropriate or inappropriate in the various hazard areas (subject to standards). Adverse effects of natural hazards are avoided or minimized, and risk to people, property and the environment is minimized, in particular for greater intensification development. Provides a broad risk categorization that reflects the severity of natural hazards against the sensitivity of activities.		
Risk of acting or not acting The risks associated with acting are: <ul style="list-style-type: none"> Restricting development potential and reducing development flexibility due to different standards. Increased development costs due to design considerations. The risks associated with not acting are: <ul style="list-style-type: none"> The features and elements in relation to the existing flood hazard, as a matter that are of national significance, are worsen or not be appropriately managed due to cumulative effects resulting from inappropriate developments. There is sufficient information regarding the important values of these existing Qualifying Matters. The risks of adopting the existing provisions and rules as a way to modify MDRS and Policy 3 to ensure the protection, maintenance and where possible the enhancement of these Qualifying Matters is far outweighed by the risks of not acting.		
Effectiveness The existing policies and methods are effective in achieving the objective because they provide a framework that reflects the specific consent requirements and setback requirements for development on sites subject to the existing mapped hazards.		
Efficiency The existing policies and methods are efficient because they clearly identify the key requirements for the areas subject to the hazard overlay.		
Alternative controls for MDRS and Policy 3 (Section 77K (1)(b))		
There are no applicable density and/or building height provisions for Low Flood and Culvert Block Flood Hazard in the ODP. The existing provisions in Chapter 22 as outlined above are considered to be sufficient for the management of natural hazards for Low Flood and Culvert Block Flood Hazards that may adversely affect human life, property or the environment. Therefore, it is proposed that the existing requirements in		

the ODP be retained in the relevant residential areas mapped in in Figure 3 as being subject to the Low Flood Hazard Area and Culvert Block Flood Hazard Area.

Assessment for the level of development enabled by MDRS and Policy 3 Section 77K (1)(d)

There are no specific alternative standards proposed to accommodate the qualifying matter in relation to Low Flood Hazards. The level of control for the constraint is commensurate with the level of the constraint as understood on a site-by-site basis. Whilst there are other specific provisions in Chapter 22 may require site-specific considerations in relation to the design and layout of the development, and engineering designed for floor heights and freeboard. Nevertheless, it is considered these provisions will not affect the level of development enabled by MDRS or Intensification Policy 3 in this instance.

2.4 Medium Flood and Temple View Flood Hazards



Management of significant risks from Medium Flood and Temple View Flood Hazards S6(h)

This qualifying matter applies to the Medium Flood and Temple View Flood Hazard areas mapped in Figure 4 above which would otherwise be subject to the requirement to implement the MDRS and Policy 3 of the NPS-UD.

Existing planning provisions and policy framework in the ODP

Medium Flood and Temple View Flood Hazard areas are addressed in Chapter 20 Natural Environment of the ODP. The extent of the Medium Flood and Temple View Flood Hazard is illustrated on the Features Map of the ODP.

There are objectives and policies in the ODP, and there are specific planning controls for buildings and activities within the identified these Flood Hazard areas. Resource consent as a Non-Complying Activity will be required for any residential activities. And resource consent as a Discretionary Activity will be required for the following activities:

- *New buildings*
- *Alterations or additions to buildings which that results in: Greater building site coverage, or an increase in habitable floor area*
- *Earthworks not otherwise identified*

The rules following also contain bespoke controls for activities within the hazard areas:

- *Rule 22.4.1 Impermeable Surfaces*
- *Rule 22.5.1 Earthworks Ancillary to a Permitted Activity*
- *Rule 22.5.4 Removal of Trees and Other Vegetation*
- *Rule 22.5.6 New Buildings, Replacement or Rebuilding of Existing Lawfully Established Buildings, and Alterations or Additions to Existing Buildings*
- *Rule 22.5.7 Vulnerable Activities, Essential Services and Regionally Significant Infrastructure*

Why this qualifying matter applies to that location (Section 77K (1)(c) and Section 77Q (1)(c))

Similar to the Low Flood Hazard assessment, continuing the existing provisions for areas within the Medium Flood Hazard is considered essential to recognise, manage and mitigate the degree of risk and vulnerability that the hazard creates to people, community, property and the environment. In comparison to Low Flood Hazard, a more restrictive approach is appropriate for the use and development of areas subject to Medium Flood Hazard, which will result in potential economic costs and influence the feasibility of development.

Temple View Flood Hazard is one of the five flood hazard areas recognized in the ODP, and it applies to parts of Temple View that are susceptible to flooding. These areas are associated with small-scale farm dams and secondary flow paths that are part of the Waipa Flood Prevention Scheme. Similar to the Medium Flood Hazard, retaining the existing provisions for areas within the Temple View Hazard overlays may result in potential economic costs and influence the feasibility of development.

Nevertheless, it is considered there would be environmental, economic and social effects by substantively developing the existing Medium Flood and Temple View Hazards, which is considered to outweigh the need to apply the MDRS and Policy 3 without modification in these locations.

There is still a resource consenting pathway which may enable greater densities and/or building heights in areas where potential effects are considered to be appropriate in the consideration of the nature, scale and intensity of activities proposed on a site-by-site basis.

Evaluation of reasonably practicable options

Option	1. Status quo – specific standards and consenting framework for certain activities and non-compliance (Preferred)	2. No limits or standards in the qualifying matter area
Relevance	This option will ensure the natural hazard are managed.	This option will potentially result in risk or become unsafe to people and their properties due to the flood hazard.
Achievability	The exiting standards and consent requirements already exist to provide for the specific management of medium flood and Temple View flood hazard.	These standards already exist and this option will require a change to the existing framework.
Reasonableness	The status quo enables the potential adverse effects of natural hazard to be avoided or minimized, and risk to people, property and the environment minimized, in particular for greater intensification development.	By not limiting through the ODP , the affected area will potentially be built out, which creates risks to people, community, property and the environment.

Evaluation of Preferred Option Against Objective(s)

Costs

Financial and time costs to prepare applications for activities requiring consent and uncertainty over whether these would be approved. Development opportunities or flexibility may be restricted.

Benefits:

Provides certainty on which activities are considered appropriate or inappropriate in the various hazard areas (subject to standards).

Adverse effects of natural hazard are avoided or minimized, and risk to people, property and the environment is minimized, in particular, for greater intensification development.

Provides a broad risk categorization which reflects the severity of natural hazards against the sensitivity of activities.

Risk of acting or not acting

The risks associated with acting are:

- Restricting development potential and reducing development flexibility due to different standards.
- Increased development costs due to design considerations.

The risks associated with not acting are:

- The features and elements in relation to the existing flood hazard, as a matter that are of national significance may worsen or not be appropriately managed, due to cumulative effects resulting from inappropriate development.

There is sufficient information regarding the important values of these existing Qualifying Matters. The risks of adopting the existing provisions and rules as a way to modify MDRS and Policy 3 to ensure the protection, maintenance and where possible the enhancement of these Qualifying Matters is far outweighed by the risks of not acting.

Effectiveness

The existing policies and methods are effective in achieving the objective because they provide a framework that reflects the specific consent requirements and setback requirements for development on sites subject to the existing mapped hazards.

Efficiency

The existing policies and methods are efficient because they clearly identify the key requirements for the areas subject to the hazard overlay.

Alternative controls for MDRS and Policy 3 (Section 77K (1)(b))

There are no applicable density and/or building height provisions for Medium Flood and Temple View Flood Hazard in the ODP. The existing requirements of resource consent for certain activities, coupled with the compliance of other specific provisions in Chapter 22 as outlined above are considered to be sufficient for the management of natural hazards for Medium Flood and Temple View Flood Hazards that may adversely affect human life, property or the environment.

Standards	MDRS	Alternative
Activity Status	Permitted	<p>Resource consent as a Non-Complying Activity within the identified Medium Flood and Temple View Flood Hazard areas for any residential activities.</p> <p>Resource consent as a Discretionary Activity within the identified hazards for the following activities:</p> <ul style="list-style-type: none"> • New buildings • Alterations or additions to buildings which results in: Greater building site coverage, or an increase in habitable floor area

No alternative building height or densities controls are proposed for Policy 3. However, the requirement of resource consent for certain activities, coupled with the compliance of other specific provisions in Chapter 22 as outlined above will continue to apply.

Assessment for the level of development enabled by MDRS and Policy 3 Section 77K (1)(d)

The ODP controls will be retained, this includes the requirement of resource consent for certain activities, including any residential activity.

The ODP requirement of resource consent as a Non-Complying Activity and/or a Discretionary Activity for developments within the Flood Hazard requires site-specific consideration for the development, in particular, regarding the detailed and comprehensive management of natural hazards and minimum floor level standards. The non-complying activity status for any residential activities also will influence the likelihood of enabling the level of residential development required as per MDRS, as resource consent may only be granted if the adverse effects of the development on the environment will be minor, or the application is for an activity that won't be contrary to the objectives and policies.

This will likely result in some reduced level of development compared with the level of development enabled by MDRS, such as reduced densities within the identified hazard area. A resource consent pathway is provided which may enable greater densities and/or building heights. These constraints are assessed in the resource consent on an individual site basis and reflect the specific nature of flood hazards on each site. Whilst the controls may have some impact on the financial feasibility for the development, overall, it is considered that the ability for development is not precluded for the affected areas.

There are no alternative density or building height controls to implement Policy 3 (c)(ii) to accommodate this qualifying matter. However, the requirement of resource consent as a discretionary activity for the construction of a new building means the likelihood of reducing densities to match the level of constraint will result in some impacts on the level of development in this instance. Similar to MDRS, these constraints

are assessed in the resource consent on an individual site basis and reflect the specific nature of flood hazards on each site.

2.5 High Flood Hazard Area

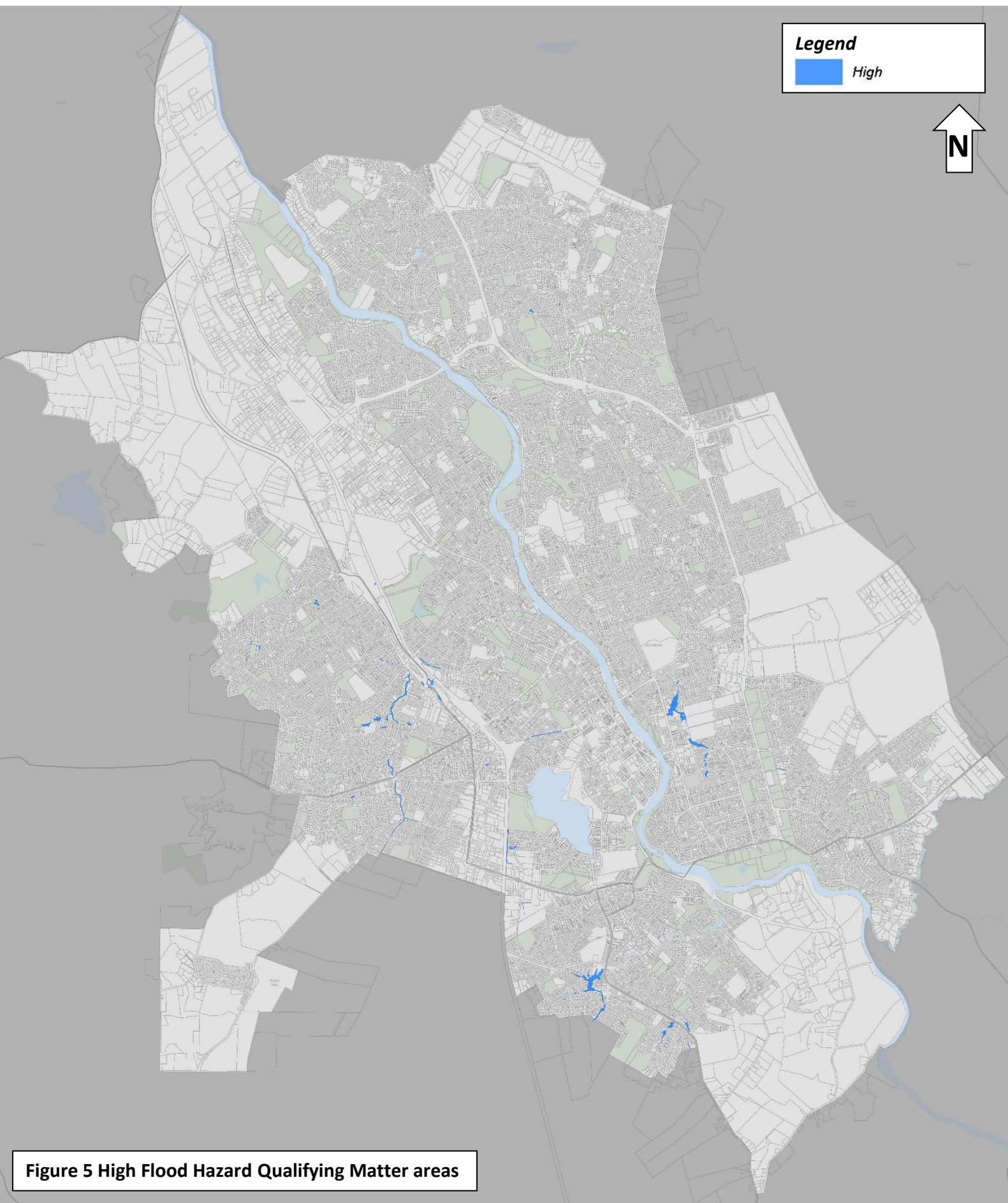


Figure 5 High Flood Hazard Qualifying Matter areas

Management of significant risks from High Flood Hazard Area S6(h)

This qualifying matter applies to the High Flood Hazard Area areas mapped in Figure 5 above which would otherwise be subject to the requirement to implement the MDRS and Policy 3 of the NPS-UD.

Existing planning provisions and policy framework in the ODP

High Flood Hazard areas are addressed in Chapter 22 Natural Hazards of the ODP. The extent of the High Flood Hazard is illustrated on the Features Map of the ODP.

There are objectives and policies in the ODP, and there are bespoke planning controls for buildings and activities within the identified High Flood Hazard areas. Resource consent as a Non-Complying Activity will be required for the following activities:

- *New buildings*
- *Alterations or additions to buildings which results in: Greater building site coverage, or an increase in habitable floor area*
- *Earthworks not otherwise identified*
- *Any residential activities*

The rules following also contain bespoke controls for activities within the hazard areas:

- *Rule 22.4.1 Impermeable Surfaces*
- *Rule 22.5.1 Earthworks Ancillary to a Permitted Activity*
- *Rule 22.5.4 Removal of Trees and Other Vegetation*
- *Rule 22.5.6 New Buildings, Replacement or Rebuilding of Existing Lawfully Established Buildings, and Alterations or Additions to Existing Buildings*
- *Rule 22.5.7 Vulnerable Activities, Essential Services and Regionally Significant Infrastructure*

Why this qualifying matter applies to that location (Section 77K (1)(c) and Section 77Q (1)(c))

Similar to the Low and Medium Flood Hazard assessment, continuing the existing provisions for areas within the High Flood Hazard is considered even more important and essential to recognise, manage and mitigate the high degree of risk and vulnerability that the hazard creates to people, community, property and the environment. The ODP has the most restrictive policy approach for the use and development of areas that are subject to High Flood Hazard, in particular, that the High Flood Hazard area corresponds with the Waikato Regional Policy Statement (RPS) definition of High Flood Risk Areas whereby, the depth of the water, its velocity, or a combination of the depth and velocity is such that activities within this area are at significant risk⁵.

These provisions safeguard the City from undue economic costs and influence the feasibility of development to shift it away from hazardous locations.

Evaluation of reasonably practicable options

Option	1. Status quo – specific standards and consenting framework for certain activities and non-compliance (Preferred)	2. No limits or standards in the qualifying matter area
Relevance	This option will ensure that natural hazards are managed.	This option will potentially result in risk or become unsafe to people and their properties due to the flood hazard.
Achievability	The exiting standards and consent requirements already exist to provide	These standards already exist and this option will require a change to the existing framework.

⁵ Ibid., pp.614.

	for the most restricted management of high flood hazard.	
Reasonableness	The status quo enables the potential adverse effects of natural hazards are avoided or minimized, and risk to people, property and the environment is minimized, in particular for greater intensification development.	By not limiting through the ODP, the affected area will potentially be built out, which creates significant risks to people, community, property and the environment.
Evaluation of Preferred Option Against Objective(s)		
Costs		
Financial and time costs to prepare applications for activities requiring consent and uncertainty over whether these would be approved. Development opportunities or flexibility may be restricted.		
Benefits:		
Provides certainty on which activities are considered appropriate or inappropriate in the various hazard areas (subject to standards).		
Adverse effects of natural hazards are avoided or minimized, and risk to people, property and the environment is minimized, in particular for greater intensification development.		
Provides a broad risk categorization which reflects the severity of natural hazards against the sensitivity of activities.		
Risk of acting or not acting		
The risks associated with acting are:		
<ul style="list-style-type: none"> • Restricting development potential and reducing development flexibility due to different standards. • Increased development costs due to design considerations. 		
The risks associated with not acting are:		
<ul style="list-style-type: none"> • The features and elements in relation to the existing flood hazard, as a matter that are of national significance are worsen or not be appropriately managed, due to cumulative effects resulting from inappropriate developments. 		
There is sufficient information regarding the important values of these existing Qualifying Matters. The risks of adopting the existing provisions and rules as a way to modify MDRS and Policy 3 to ensure the protection, maintenance and where possible the enhancement of these Qualifying Matters is far outweighed by the risks of not acting.		
Effectiveness		
The existing policies and methods are effective in achieving the objective because they provide a framework that reflects the specific consent requirements and setback requirements for development on sites subject to the existing mapped hazards.		
Efficiency		
The existing policies and methods are efficient because they clearly identify the key requirements for the areas subject to the hazard overlay.		
Alternative controls for MDRS and Policy 3 (Section 77K (1)(b))		
There are no applicable density and/or building height provisions for High Flood Hazard in the ODP. The existing requirement of resource consent for certain activities as a Non-Complying Status is considered to be sufficient for the management of natural hazards for High Flood Hazards that may adversely affect human life, property or the environment.		

Standards	MDRS	Alternative
Activity Status	Permitted	Resource consent as a Non-Complying Activity within the identified High Flood Hazard areas for the following activities: <ul style="list-style-type: none"> • New buildings • Alterations or additions to buildings which result in: Greater building site coverage, or an increase in habitable floor area • Any residential activities.

No alternative building height or densities controls are proposed for Policy 3. However, the requirement of resource consent for certain activities will continue to apply.

Assessment for the level of development enabled by MDRS and Policy 3 Section 77K (1)(d)

The ODP requires resource consent for certain activities, including for any residential activity.

Any residential activities and the construction of new buildings within the High Flood Hazard will require resource consent as a Non-Complying Activity. The requirement of this type of resource consent will require site-specific consideration for the development, in particular, detailed and comprehensive management of natural hazards. The non-complying activity status for any residential activities also will influence the likelihood of enabling the level of residential development required as per MDRS, as resource consent may only be granted if the adverse effects of the development on the environment will be minor, or the application is for an activity that won't be contrary to the objectives and policies. This is likely to result in a highly reduced level of development compared to the level of development that has been enabled by MDRS. The constraint is commensurate to the level of flooding risk.

There are no alternative density or building height controls to implement Policy 3 (c)(ii) to accommodate this qualifying matter. The requirement of non-complying resource consent for any residential activities and the construction of new buildings means the high level of possibility and likelihood of declining a resource consent to seeking to develop within the identified hazard area.

The non-complying activity status is often reserved for those activities where the potential adverse effects are great but do not necessarily warrant prohibition. In this particular instance, the resource consent pathway may enable greater densities and/or building heights. The constraints are assessed through resource consent on an individual site basis and reflect the specific nature of flood hazards on each site. As such, whilst the controls may have some impact on the financial feasibility for the development, overall, it is considered that the ability for development is not precluded for the affected areas.

2.6 National Grid Yards

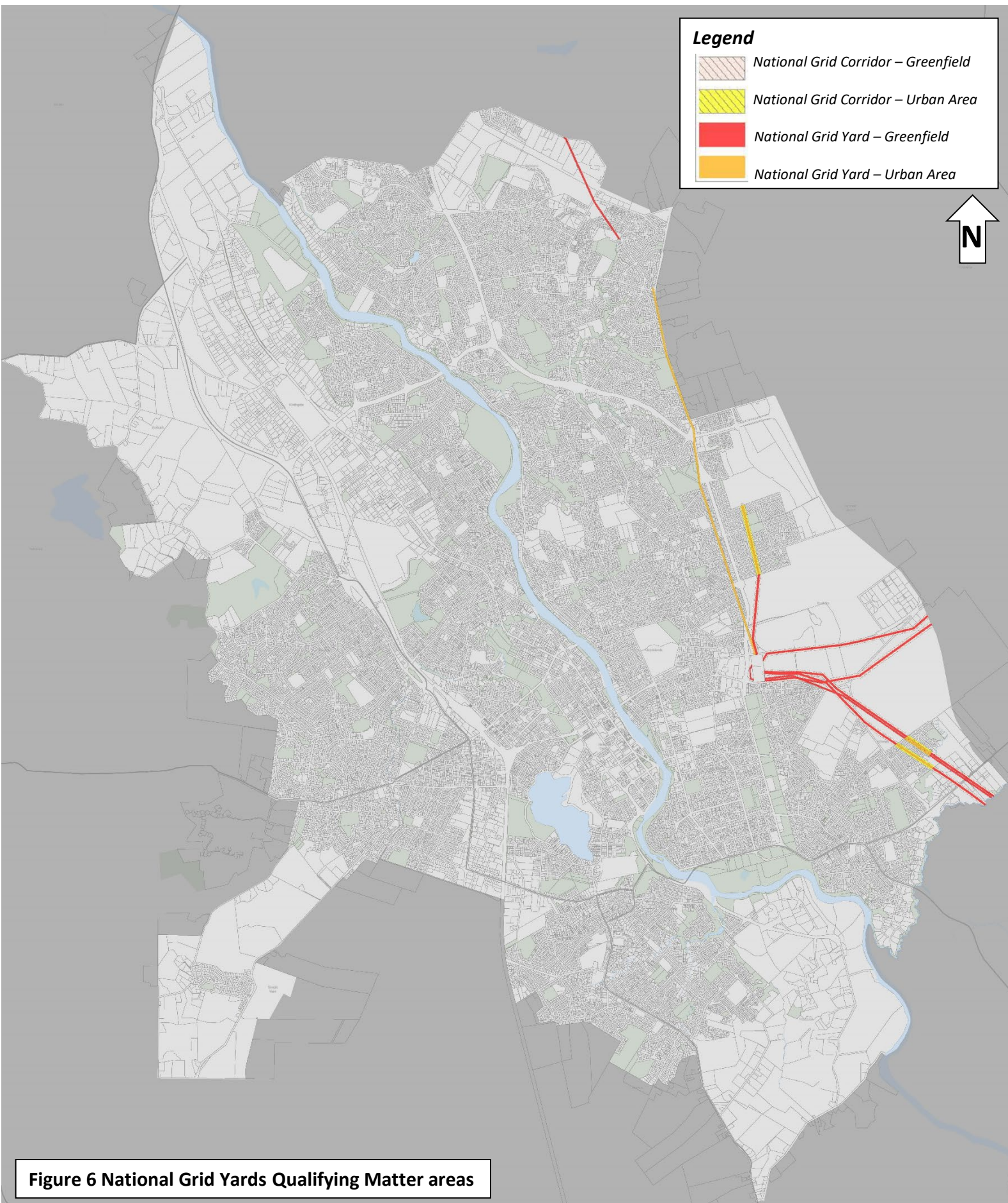


Figure 6 National Grid Yards Qualifying Matter areas

Ensuring the safe or efficient operation of nationally significant infrastructure: National Grid Yards

This Qualifying Matter applies to the National Grid Yard areas mapped in Figure 6 above which would otherwise be subject to the requirements to implement the MDRS and Policy 3 of the NPS-UD.

Existing planning provisions and policy framework in the ODP

National Grid Yards are addressed in Chapter 25.7 Natural Hazards of the ODP. The extent of the yards is illustrated on the Features Map of the ODP.

There are objectives and policies in the ODP, and there are bespoke planning controls for building heights as below:

- Rule 25.7.5.1 *Height* – maximum building height for each zone is as follows
 - All Residential, Special Character, Community Facilities, Open Space, and Future Urban Zones, and in the Transport Corridor Zone adjoining any of these zones = 15m (5 to 6 storey)
 - All Business 1 to 7, Industrial, Ruakura Industrial Park, Te Rapa North Industrial, Major Facilities, Central City, Ruakura Logistics and Knowledge Zones and in the Transport Corridor Zone adjoining these zones = 24m and 26m (6+ storey)

In addition, resource consent as a Non-Complying Activity will be required for the following activities:

- New buildings or additions to the building envelope of existing buildings for a sensitive land use, including any residential activities
- Establishment of a sensitive land use and changes of activity to a sensitive land use
- Any building within 12m of the outer visible edge of a National Grid support structure

Why this qualifying matter applies to that location (Section 77K (1)(c) and Section 77Q (1)(c))

Network utilities are services and facilities such as Three Waters systems, telecommunications, radio communications, electricity and gas networks and they can be provided by public and private organisations. The functioning of the City depends on network utilities therefore it is vital that the construction, maintenance and operation of these services and facilities be effectively provided for in the ODP.

For areas that are subject to, either wholly or partially, National Grid Yard, the ODP has the most restrictive policy approach for the use and development of these areas, whereas the underlying zone objectives, policies, rules, city-wide rules and subdivision rules still apply. These provisions will result in economic costs and influence the feasibility of development, in particular, considering the non-complying activity status for any residential activities and new buildings.

Nevertheless, it is considered there would be wider environmental, economic and social effects to retain these controls. Encouraging or enabling built form to the level of the MDRS and policy 3 within the National Grid Yard is inappropriate. The costs of functioning these utilities are considered to outweigh the need to extend the densities and/or heights as required under MDRS and Policy 3 of the MDRS.

Evaluation of reasonably practicable options

Option	1. Status quo – specific standards and consenting framework for certain activities and non-compliance (Preferred)	2. No limits or standards in the qualifying matter area
Relevance	This option will ensure the safe operation of the network utilities.	This option will potentially result in damage and become unsafe for the operation and use of network utilities.
Achievability	The existing standards and consent requirements already exist to provide	These standards already exist and this option will require a change to the existing framework.

	for the operation and management of network utilities.	
Reasonableness	The status quo enables the network utilities to continue to meet and provide for the economic and growth demands of Hamilton.	By not having any standards or limits, the areas within the National Grid will be built out, which may damage or impact the daily operation and safety of these network utilities, and thereby may not be able to continue to provide for the economic and growth demands of the City.

Evaluation of Preferred Option Against Objective(s)

Costs

Financial and time costs to prepare applications for activities requiring consent and uncertainty over whether these would be approved. Development opportunities or flexibility may be restricted.

Benefits:

The function for day-to-day operation, maintenance and repair of existing network utilities is safeguarded.

Reduces the risk of the electricity transmission network being adversely affected by subdivision, land use and further intensification development.

Risk of acting or not acting

The risks associated with acting are:

- Restricting development potential and reducing development flexibility due to different standards.
- Increased development costs due to design considerations.

The risks associated with not acting are:

- The features and elements in relation to the existing National Grid networks are destroyed or damaged resulting in unsafe and ineffective operations of these infrastructures, due to cumulative effects resulting from inappropriate developments.

There is sufficient information regarding the important values of these existing Qualifying Matters. The risks of adopting the existing provisions and rules as a way to modify MDRS to ensure the protection, maintenance and where possible the enhancement of these Qualifying Matters, are far outweighed by the risks of not acting.

Effectiveness

The existing policies and methods are effective in achieving the objective because they provide a framework that reflects the specific consent requirements and setback requirements for development on sites subject to the existing mapped National Grid network.

Efficiency

The existing policies and methods are efficient because they clearly identify the key requirements for the areas subject to the existing overlay.

Alternative controls for MDRS and Policy 3 (Section 77K (1)(b))

There are no applicable density and/or building height provisions for activities and developments within the identified grid yards in the ODP. The existing requirement of resource consent for certain activities as a Non-Complying Status is considered to be sufficient for the construction, maintenance and operation of these services and facilities.

Standards	MDRS	Alternative
Activity Status	Permitted	Resource consent as a Non-Complying Activity within the identified grid yard areas for the following activities:

		<ul style="list-style-type: none"> • New buildings or additions to the building envelope of existing buildings for a sensitive land use, including any residential activities • Establishment of a sensitive land use and changes of activity to a sensitive land use • Any building within 12m of the outer visible edge of a National Grid support structure
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No alternative building height or densities controls are proposed for Policy 3. However, the requirement of resource consent for certain activities will continue to apply should the site is subject to the identified grid yard.

Assessment for the level of development enabled by MDRS and Policy 3 Section 77K (1)(d)

To accommodate the Qualifying Matter in relation to the national grid yards, the ODP will require resource consent for certain activities, including for any new buildings and any sensitive land uses (including residential activities), which are existing controls in the ODP.

Residential activities and the construction of new buildings within the identified yard area will require resource consent where a full range of assessment matters referred to in s104 of the RMA will be made. The requirement of resource consent as a Non-Complying Activity will require site-specific consideration for the development, which may result in a moderately reduced level of development compared with the level of development that has been enabled by MDRS. This may include reduced densities and/or building heights within the identified area.

The non-complying activity status is often reserved for those activities where the potential adverse effects are great but do not necessarily warrant prohibition. In this particular instance, the resource consent pathway may enable greater densities and/or building heights. These constraints are assessed through resource consent on an individual site basis and are likely subject to consultation with the infrastructure operators or providers. Whilst the controls may have some impact on the financial feasibility for the development, it is overall considered that the ability for development is not precluded for the affected areas.

2.7 National Grid Corridors

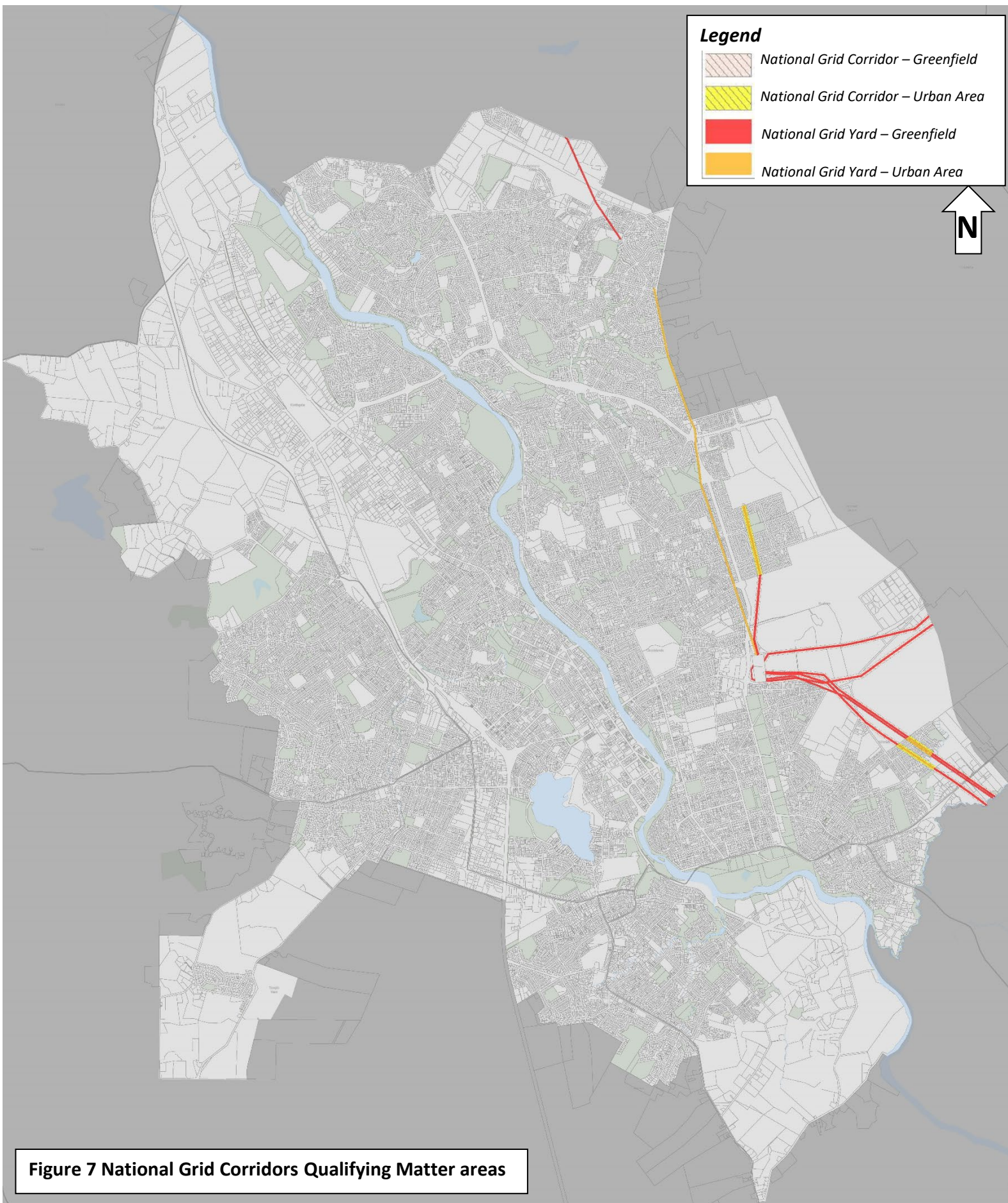


Figure 7 National Grid Corridors Qualifying Matter areas

Ensuring the safe or efficient operation of nationally significant infrastructure: National Grid Corridors

This Qualifying Matter applies to the National Grid Corridor area mapped in Figure 7 above which would otherwise be subject to the requirement to implement the MDRS and Policy 3 of the NPS-UD.

Existing planning provisions and policy framework in the ODP

The National Grid Corridor is addressed in Chapter 25.7 of the ODP. The extent of the corridor is illustrated on the Features Map of the ODP.

There are objectives and policies in the ODP, and there are bespoke planning controls for building heights as below:

- Rule 25.7.5.1 *Height* – maximum building height for each zone is as follows
 - All Residential, Special Character, Community Facilities, Open Space, and Future Urban Zones, and in the Transport Corridor Zone adjoining any of these zones = 15m (5 to 6 storey)
 - All Business 1 to 7, Industrial, Ruakura Industrial Park, Te Rapa North Industrial, Major Facilities, Central City, Ruakura Logistics and Knowledge Zones and in the Transport Corridor Zone adjoining these zones = 24m and 26m (6+ storey)

- Rule 25.7.6.1 *National Grid Buildings and Structures* - All buildings or structures must comply with at least one of the following conditions:
 - A minimum vertical clearance of 10m below the lowest point of the conductor associated with National Grid lines; or
 - Demonstrate that safe electrical clearance distances are maintained under all National Grid line operating conditions. As required by the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001).

In addition, resource consent as a Non-Complying Activity will be required for the following activities:

- Any building within 12m of the outer visible edge of a National Grid support structure
- Any activity not complying with Rule 25.7.6.1 National Grid Buildings and Structures

Why this qualifying matter applies to that location? (Section 77K (1)(c) and Section 77Q (1)(c))

Different from the developments within the National Grid Yards, for areas that are subject to National Grid Corridor, either wholly or partially, the ODP has allowed for the use and development of areas subject to the specific standards as outlined above. These provisions will result in minimal economic costs and influence on the feasibility of development.

It is considered there would be environmental, economic and social benefits to manage the use of affected sites and areas and to ensure the function of these utilities through accommodating this qualifying matter via the existing provisions. Importantly there is still a resource consenting pathway which may enable greater heights where appropriate in these areas where potential effects on this qualifying matter are considered to be appropriate.

Evaluation of reasonably practicable options

Option	1. Status quo – specific standards and consenting framework for certain activities and non-compliance (Preferred)	2. No limits or standards in the qualifying matter area
Relevance	This option will ensure the safe operation of the network utilities.	This option will potentially result in damage and become unsafe for the operation and use of network utilities.

Achievability	The existing standards and consent requirements already exist to provide for the operation and management of network utilities.	These standards already exist and this option will require a change to the existing framework.
Reasonableness	The status quo enables the network utilities to continue to meet and provide for the economic and growth demands of Hamilton.	By not having any standards or limits, the areas within the National Grid will be built out, which may damage or impact the daily operation and safety of these network utilities, and thereby may not be able to continue to provide for the economic and growth demands of the City.

Evaluation of Preferred Option Against Objective(s)

Costs

Financial and time costs to prepare applications for activities requiring consent and uncertainty over whether these would be approved. Development opportunities or flexibility may be restricted.

Benefits:

The function for day-to-day operation, maintenance and repair of existing network utilities is safeguarded.

Reduces the risk of the electricity transmission network being adversely affected by subdivision, land use and further intensification development.

Risk of acting or not acting

The risks associated with acting are:

- Restricting development potential and reducing development flexibility due to different standards.
- Increased development costs due to design considerations.

The risks associated with not acting are:

- The features and elements in relation to the existing National Grid networks are destroyed or damaged resulting in unsafe and ineffective operations of these infrastructures, due to cumulative effects resulting from inappropriate developments.

There is sufficient information regarding the important values of these existing Qualifying Matters. The risks of adopting the existing provisions and rules as a way to modify MDRS to ensure the protection, maintenance and where possible the enhancement of these Qualifying Matters, are far outweighed by the risks of not acting.

Effectiveness

The existing policies and methods are effective in achieving the objective because they provide a framework that reflects the specific consent requirements and setback requirements for development on sites subject to the existing mapped National Grid network.

Efficiency

The existing policies and methods are efficient because they clearly identify the key requirements for the areas subject to the existing overlay.

Alternative controls for MDRS and Policy 3 (Section 77K (1)(b))

There are no applicable density and/or building height provisions in the ODP for this qualifying matter. The existing provisions in Chapter 25.7 as outlined above is considered to be sufficient. These standards will continue to be applied for areas subject to the Grid Corridors.

Standards	MDRS	Alternative
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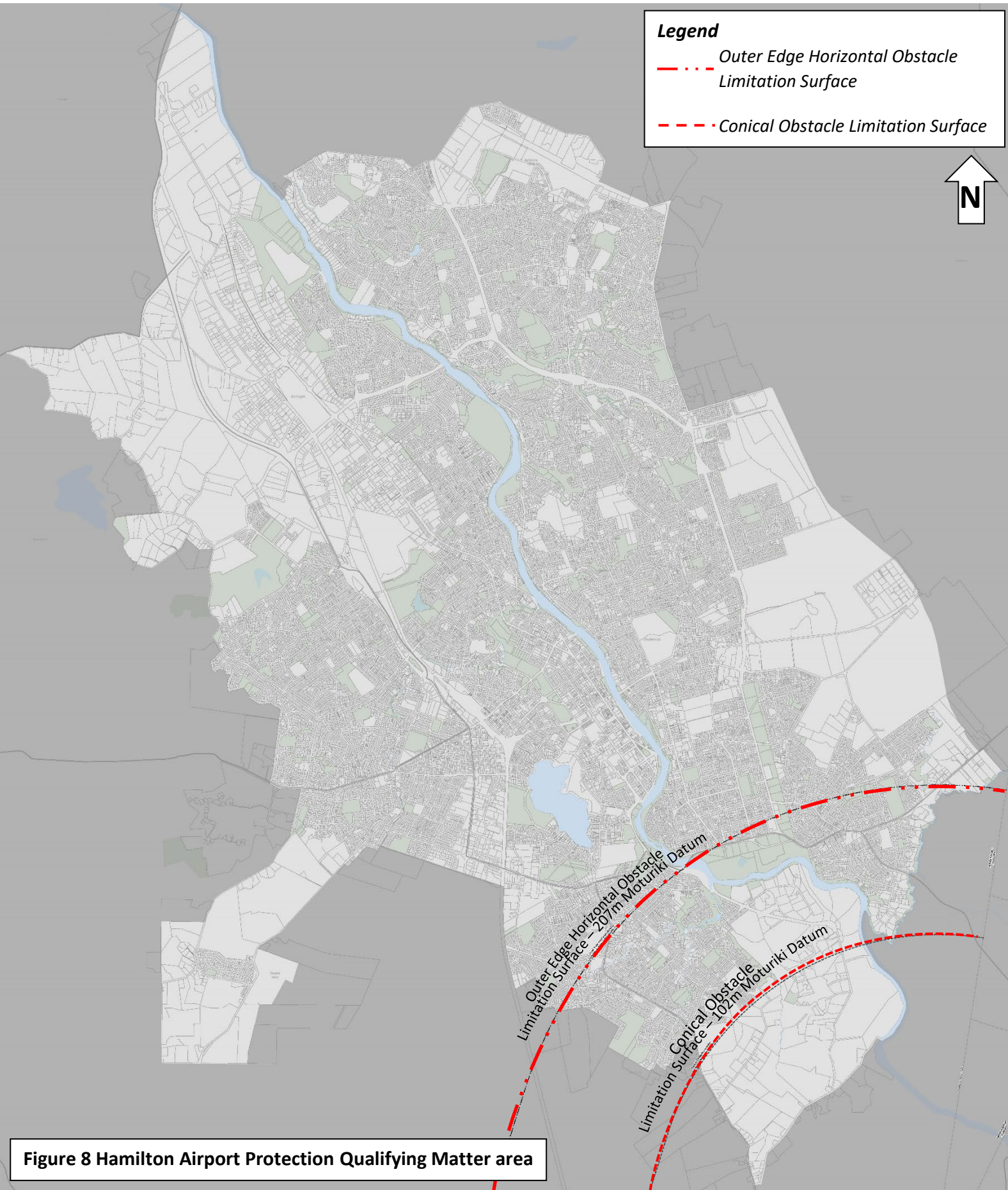
Activity Status	Permitted	Resource consent as a Non-Complying Activity within the identified grid yard areas for the following activities: <ul style="list-style-type: none"> • Any building within 12m of the outer visible edge of a National Grid support structure • Any activity not complying with Rule 25.7.6.1 National Grid Buildings and Structures
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There are no applicable density and/or building height provisions in the ODP for this qualifying matter. Therefore, no alternative building height or densities are proposed for Policy 3. The compliance with other specific provisions in Chapter 25.7 as outlined above is considered to be sufficient. These standards will continue to be applied for areas subject to the Grid Corridors.

Assessment for the level of development enabled by MDRS and Policy 3 Section 77K (1)(d)

There are no specific alternative standards proposed to accommodate the qualifying matter in relation to the national grid corridors. There are other specific provisions in Chapter 25.7 may require site-specific considerations in relation to the design and layout of the development. Nevertheless, it is considered these provisions will not affect the level of development enabled by MDRS or Intensification Policy 3 in this instance.

2.8 Hamilton Airport Protection Areas



Ensuring the safe or efficient operation of nationally significant infrastructure: Horizontal Obstacle Limitation Surface and Outer Edge Conical Obstacle Limitation Surface

This Qualifying Matter applies to the Hamilton Airport Protection area mapped in Figure 8 above which would otherwise be subject to the requirement to implement the MDRS and Policy 3 of the NPS-UD.

Existing planning provisions and policy framework in the ODP

Horizontal Obstacle Limitation Surface and Outer Edge Conical Obstacle Limitation Surface areas are addressed in Chapter 25.14 Transportation of the ODP. The extent of the affected area is illustrated on the Features Map of the ODP.

There are objectives and policies in the ODP, and there are bespoke planning controls for building heights as below:

- Rule 25.14.4.5 *Height of Structures – Horizontal and Conical Obstacle Limitation Surfaces*

Why this qualifying matter applies to that location (Section 77K (1)(c) and Section 77Q (1)(c))

The provision is to ensure the efficient use and operation of Hamilton Airport as part of the wider transport network, particularly to ensure the health and safety of people flying in aircraft operating out of Hamilton Airport is protected from intruding obstacles. Accommodating this qualifying matter through the existing height provision within the ODP will continue the sustainable management of the Airport (as a significant physical resource) in a way that will enable the health and safety of people and the community, while continuing to provide for their social, economic and cultural wellbeing. It is considered that the benefits and expected outcomes outweigh the respective costs. The existing building height controls are generous and are considered to have no impact on MDRS and/or Policy 3.

Evaluation of reasonably practicable options

Option	1. Status quo – specific standards and consenting framework for non-compliance (Preferred)	2.No limits or standards in the qualifying matter area
Relevance	This option will ensure the safe operation of the airport.	This option will potentially result in damage and become unsafe for the operation and use of the airport.
Achievability	The existing height limits provide for the management of air traffic safety.	These standards already exist and this option will require a change to the existing framework.
Reasonableness	The status quo enables the airport to continue to meet and provide for the economic and growth demands of Hamilton and the sub-region.	By not limiting height through the ODP, the airspace required to operate the airport safely will be built out. This will mean that the airport will not be able to continue to provide for the economic and growth demands of the City and the sub-region.

Evaluation of Preferred Option Against Objective(s)

Costs

Financial and time costs to prepare applications for activities requiring consent and uncertainty over whether these would be approved. Development opportunities or flexibility may be restricted.

Benefits:

The function for day-to-day operation, maintenance and repair of the existing airport is safeguarded.

Provides certainty that where the airspace required to operate the airport safely is at risk of being built out, they will be involved in considering any potential adverse effects through a resource consent process.

Risk of acting or not acting

The risks associated with acting are:

- Restricting development potential and reducing development flexibility due to different standards.
- Increased development costs due to design considerations.

The risks associated with not acting are:

- The safe function and operation of the existing Hamilton airport are destroyed or damaged, due to cumulative effects resulting from inappropriate developments.

There is sufficient information regarding the important values of these existing Qualifying Matters. The risks of adopting the existing provisions and rules as a way to modify MDRS and Policy 3 to ensure the protection, maintenance and where possible the enhancement of these Qualifying Matters, are far outweighed by the risks of not acting.

Effectiveness

The existing policies and methods are effective in achieving the objective because they provide a framework that reflects the specific consent requirements and setback requirements for development on sites subject to the existing mapped airport network.

Efficiency

The existing policies and methods are efficient because they clearly identify the key requirements for the areas subject to the existing overlay.

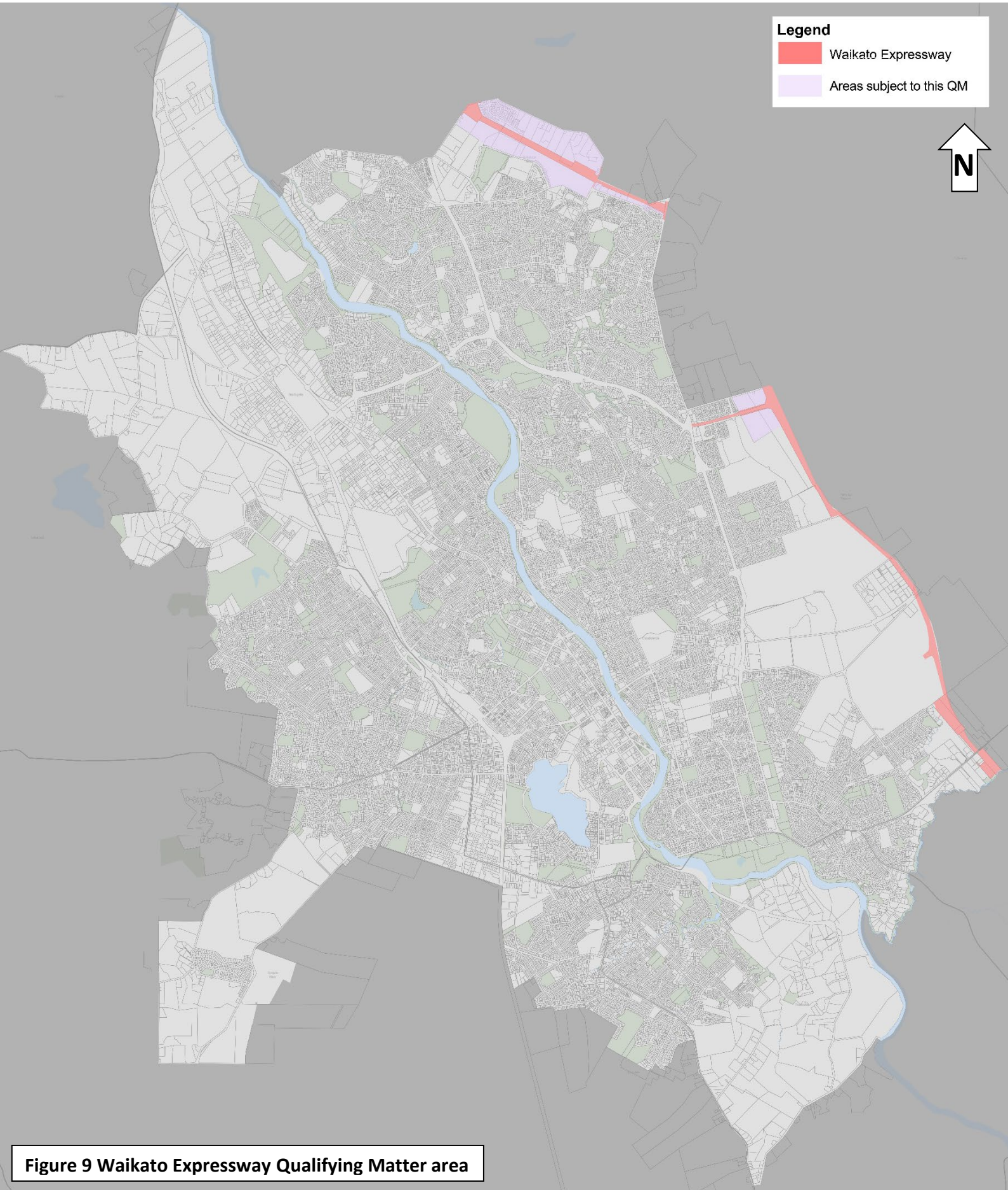
Alternative controls for MDRS and Policy 3 (Section 77K (1)(b))

There are no applicable density and/or building height provisions in the ODP for this qualifying matter. The existing provisions in Chapter 25.14 as outlined above are considered to be sufficient. These standards will continue to be applied for areas subject to this qualifying matter.

Assessment for the level of development enabled by MDRS and Policy 3 Section 77K (1)(d)

As there are no specific alternative standards proposed to accommodate the qualifying matter in relation to the national grid corridors. The provisions in Chapter 25.14 may require site-specific considerations in relation to the design and layout of the development. Nevertheless, it is considered these provisions will not affect the level of development enabled by MDRS or Intensification Policy 3 in this instance.

2.9 Waikato Expressway



Ensuring the safe or efficient operation of nationally significant infrastructure: Waikato Expressway

This Qualifying Matter applies to the Waikato Expressway area mapped in Figure 9 above which would otherwise be subject to the requirement to implement the MDRS and Policy 3 of the NPS-UD.

Existing planning provisions and policy framework in the ODP

The existing building setback requirements from the Waikato Expressway are in Chapter 4, Chapter 5 and Chapter 13 of the ODP. The extent of the affected area is limited to the residential areas adjoining the Waikato Expressway, including:

- General Residential Zone
- Rototuna North East Character Zone
- Rototuna Town Centre – Residential Precincts

There are objectives and policies in the ODP, and there are specific planning controls for building setbacks as below:

- Rule 4.4.6(c) *Building Setbacks – Waikato Expressway*
- Rule 5.4.6 Table 5.4.6c *Rototuna North East Character Zone (f) and (g)*
- Rule 13.9.3 *Building Setbacks from Expressway*

Why this qualifying matter applies to that location? (Section 77K (1)(c) and Section 77Q (1)(c))

The Waikato Expressway cuts through the north eastern area of Hamilton City and it adjoins three different residential zones. At the time of reviewing the ODP, the designation for the Expressway was confirmed and was shown on the ODP Features Map. It is acknowledged that the exact location and width of the Expressway is now confirmed and known.

The building setback provisions are to ensure the efficient use and operation of the Expressway as part of the wider transport network and nationally significant infrastructures, in particular, to mitigate reverse sensitivity effects from any residential developments adjacent to the Expressway and the noise and vibration effects of the high volume traffic.

As the exact location and width of the Expressway is now confirmed and known, accommodating this qualifying matter through the existing building setback provisions within the ODP will continue the sustainable function and use of the Expressway. This will also ensure the health and safety of the people and the community, while continuing to provide for their social, economic and cultural wellbeing. It is considered that the benefits and expected outcomes outweigh the respective costs.

Evaluation of reasonably practicable options

Option	1. Status quo – specific standards and consenting framework for non-compliance (Preferred)	2. No limits or standards in the qualifying matter area
Relevance	This option will ensure the safe operation of the Expressway. This option will also avoid and mitigate any reserve sensitivity effects, noise and vibration effects resulting from the Expressway.	This option will potentially result in damage and become unsafe for the operation and use of the Expressway.
Achievability	The existing setback limits provide for the management of Expressway traffic safety.	These standards already exist and this option will require a change to the existing framework.
Reasonableness	The status quo enables the Expressway to continue to meet and provide for the economic and growth demands of	By not limiting setbacks through the OPD, developments, buildings and structures will be built close to the Expressway. This will

	Hamilton and the sub-region.	potentially mean that the Expressway will not be able to continue to provide for the economic and growth demands of the City and the sub-region.
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Evaluation of Preferred Option Against Objective(s)

Costs

Financial and time costs to prepare applications for activities requiring consent and uncertainty over whether these would be approved. Development opportunities or flexibility may be restricted.

Benefits:

The function for day-to-day operation, maintenance and repair of the existing Expressway is safeguarded.

Provides certainty that where the airspace required to operate the Expressway safely is at risk of being built out, they will be involved in considering any potential adverse effects through a resource consent process.

Risk of acting or not acting

The risks associated with acting are:

- Restricting development potential and reducing development flexibility due to different standards.
- Increased development costs due to design considerations.

The risks associated with not acting are:

- The safe function and operation of the Expressway are destroyed or damaged, due to cumulative effects resulting from inappropriate developments.

There is sufficient information regarding the important values of these existing Qualifying Matters. The risks of adopting the existing provisions and rules as a way to modify MDRS to ensure the protection, maintenance and where possible the enhancement of these Qualifying Matters, are far outweighed by the risks of not acting.

Effectiveness

The existing policies and methods are effective in achieving the objective because they provide a framework that reflects the specific consent requirements and setback requirements for development on sites subject to the existing Waikato Expressway.

Efficiency

The existing policies and methods are efficient because they clearly identify the key requirements for the areas subject to the existing Expressway.

Alternative controls for MDRS and Policy 3 (Section 77K (1)(b))

There are no applicable density and/or building height provisions for activities and developments for residential sites adjoining the Expressway. The existing building setbacks of the ODP are sufficient for residential development occurring without affecting the use and functions of the Expressway.

Standards	MDRS	Alternative
Building setback	Front yard = 1.5m Side yard = 1m Rear yard = 1m	<p><i>For sites within the General Residential Zone (Rule 4.2.5.6.(k))</i></p> <ul style="list-style-type: none"> - All buildings to be set back a minimum of 40m measured from the actual carriageway edge of the Waikato Expressway <p><i>For sites within the General Residential Zone – Rototuna North East Precinct (Rule 4.2.5.6.(l) and Rule 4.2.5.6.(m))</i></p> <ul style="list-style-type: none"> - All habitable buildings shall be set back a 55dBLAeq(24hr) contour line from the Waikato

		<p>Expressway carriageway boundary determined at the time of subdivision.</p> <ul style="list-style-type: none"> - All non-habitable buildings to be set back 10m from the actual carriageway edged of the Expressway. <p><i>For sites within the Medium Density Residential Zone - Rototuna Town Centre Precinct (Rule 4.3.4.6.(h))</i></p> <ul style="list-style-type: none"> - All buildings to be set back a minimum of 15 metres from the boundary of the Waikato Expressway. <p><i>For sites within the Medium Density Residential Zone – Te Awa Lakes Residential Precinct (Rule 4.3.4.6.(l))</i></p> <ul style="list-style-type: none"> - Within 200m of the Waikato Expressway carriageway, habitable rooms shall be orientated away from the Expressway.
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No alternative building height or densities controls are proposed for Policy 3. However, the requirement of building setbacks will continue to apply should the site be adjacent to the Expressway.

Assessment for the level of development enabled by MDRS and Policy 3 Section 77K (1)(d)

The ODP requires certain setbacks from the Expressway. This means residential sites affected by the Expressway overlay will require to have a greater building setback for their front, side and rear yards.

Accommodating this Qualifying Matter will require design considerations to accommodate the setback, which may require site-specific considerations in relation to the design and layout of the development. The additional building setback requirement ultimately require proposed buildings to be located further away from the Expressway, which have the potential to affect the level of development enable by MDRS. However, as the constraint is in relation to a future operation and use of a nationally significant infrastructure there is merit in the control. The level of development prevented by this Qualifying Matter will be determined on a case-by-case scenario as this can be influenced depending on the final building setback as required for that particular proposal. As such, it is not possible to calculate the exact level of development that would be prevented by accommodating this qualifying matter. However, the constraint only applies to a small portion of the overall area where MDRS could apply. It is considered the alternative provision will not significantly affect the level of development enabled by the MDRS, in comparison with the level of development that would have been enabled by MDRS.

For developments that cannot comply with this standard, there is still a resource consenting pathway (through a restricted discretionary activity consent) which may enable reduced building setbacks in these areas where potential effects are evidenced to be appropriate.

There is no alternative density or building height controls to implement Policy 3 (c)(ii) to accommodate this qualifying matter. However, similar to MDRS, the building setback requirement may result in a lesser level of development as it precludes certain areas from development.

2.10 Designations

Giving effect to Designations

The qualifying matter applies to the Designations listed in Chapter 26 of the ODP. These would otherwise be subject to the requirement to implement the MDRS and Policy 3 of the NPS-UD.

Existing planning provisions and policy framework in the ODP

Designations are listed in Chapter 26 of the ODP. The location and the extent of each designation is illustrated on the Features Map of the ODP.

There are no bespoke planning controls for building heights and densities applicable for these designated sites and areas since works within a designation require an Outline Plan to be submitted to HCC, in accordance with section 176A of the Act before construction begins. Any works outside of the scope of the associated designation will be deferred to the standards within the underlying zoning and applicable features and overlays standards.

Why this qualifying matter applies to that location (Section 77K (1)(c) and Section 77Q (1)(c))

A designation is a planning technique used by Ministers of the Crown, local authorities and network utility operators approved as requiring authorities under s167 of the RMA. A designation restricts anyone other than the requiring authority from carrying out work on the designated land, that will prevent or hinder the project or work to which the designation relates, without first obtaining the requiring authority's permission (refer s176(b)).

For areas that are that required to give effect to MDRS and policy 3 in that zone, the 'underlying zone' of the ODP remains over the site and applies to any other activities that are for a purpose different from the designation purpose (or activities undertaken by a party other than the requiring authority) under s176. Therefore, any activity or works outside the scope of a designation will require resource consent unless the activity or works are a permitted activity within the underlying zone. Designations also do not modify how land adjacent to designated sites may be used. Accordingly, it is considered that no negative costs or broader impacts are applicable.

Alternative controls for MDRS and Policy 3 (Section 77K (1)(b))

No alternative standard is proposed.

Assessment for the level of development enabled by MDRS and Policy 3 Section 77K (1)(d)

There will be no change to the level of development for the designated sites.

2.11 Open Space Zones

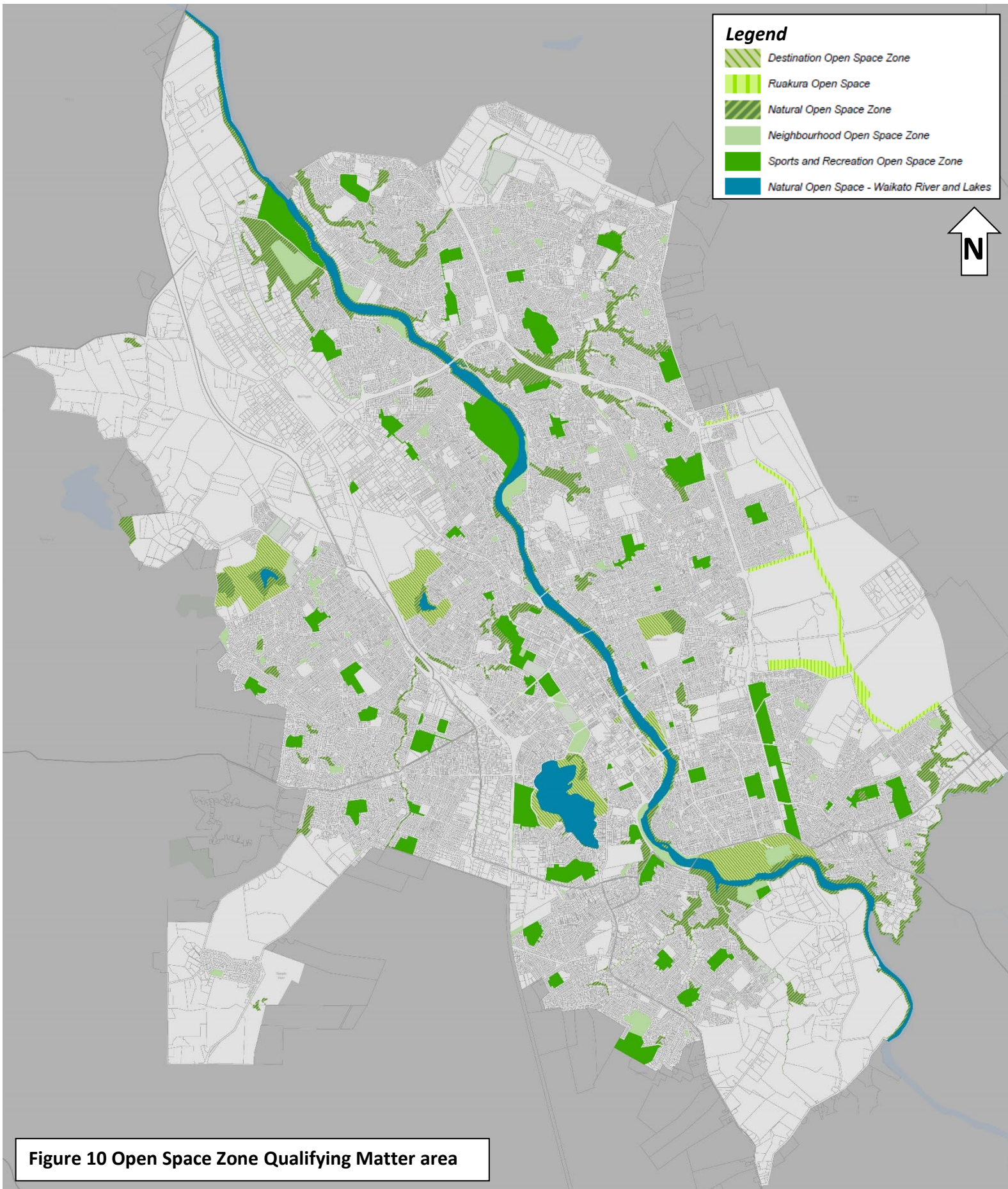


Figure 10 Open Space Zone Qualifying Matter area

Open Space Zones

This Qualifying Matter applies to the Open Space Zones mapped in Figure 10 above which would otherwise be subject to the requirement to implement the MDRS and Policy 3 of the NPS-UD.

Location where the qualifying matters apply (Section 77Q (1)(a))

- Each Sport and Recreation Open Space Zone, Neighbourhood Open Space Zone, Natural Open Space Zone and Destination Open Space Zone, as shown in green in the ODP Zoning Map above, that required to give effect to the density and building height requirements under policy 3 in that zone

Existing planning provisions and policy framework in the ODP

The matter in relation to Open Space Zones is currently in Chapter 15 of the ODP. The location and extent of the affected area is illustrated through the Zoning Map of the ODP.

There are objectives and policies in the ODP, and there are bespoke planning controls for building heights as below:

- Rule 15.4.4 *Building Heights*:
 - Natural Open Space Zone = 5m
 - Neighbourhood Open Space Zone = 5m
 - Sport and Recreation Open Space Zone = 8m
 - Destination Open Space Zone = 12m

Why this qualifying matter applies to that location (Section 77Q (1)(c))

Open space is an important city asset providing for the social, economic, and cultural wellbeing of a community and it is important that Hamilton has land to accommodate parks, sports fields, recreational facilities, amenity areas, buffers and areas with natural value. Policy 3 requires some of these open space zones to be amended and to allow for at least 6-storey building height for those located within the walkable catchment from the Central City Zone, and to have a commensurate level of building height for those adjacent centres.

The building height standard, along with all the other bulk and location standards, generally reflects the intensity of development considered appropriate to each type of open space. Therefore, having the building height standards continue in place is considered to have wider beneficial environmental, cultural, economic and social impacts, protecting the amenity of surrounding neighbourhoods and the open space itself⁶. Furthermore, with no changes proposed to rezone these areas into residential zones, it is not considered to have any impact on the existing MDRS or Policy 3 development outcomes.

Evaluation of reasonably practicable options

Option	1. Status quo – specific standards and consenting framework for certain activities and non-compliance (Preferred)	2. No limits or standards in the qualifying matter area
Relevance	This option will ensure the continued provisions, operation and maintenance of the Open Space as an important city asset.	This option will potentially result in damage and become unsafe for the operation and use of open space.
Achievability	The existing standards and consent requirements already exist to provide for the operation and management of open space.	These standards already exist and this option will require a change to the existing framework.

⁶ Hamilton City Council. *Section 32 Analysis*. Hamilton City Council, 2012, pp. 496.

Reasonableness	The status quo enables the open space to continue providing for the social, economic, and cultural wellbeing of a community and it is important that Hamilton has land to accommodate parks, sports fields, recreational facilities, amenity areas, buffers and areas with natural value.	By not having any standards or limits, there is a potential for these areas to be built out, which does not reflect the intensity of development considered appropriate to each type of open space.
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Evaluation of Preferred Option Against Objective(s)

Costs

Places restrictions on how buildings are to be designed

Benefits:

The amenity of surrounding neighbourhoods and the functions and values of relevant zones can be protected, without being compromised by other activities and land development.

Risk of acting or not acting

The risks associated with acting are:

- Restricting development potential and reducing development flexibility due to different standards.
- Increased development costs due to design considerations.

The risks associated with not acting are:

- The features and elements in relation to the existing open space are destroyed or lost, due to cumulative effects resulting from inappropriate developments.

There is sufficient information regarding the important values of these existing Qualifying Matters. The risks of adopting the existing provisions and rules as a way to modify Policy 3 to ensure the protection, maintenance and where possible the enhancement of these Qualifying Matters, are far outweighed by the risks of not acting.

Effectiveness

The existing policies and methods are effective in achieving the objective because they provide a framework that reflects the specific consent requirements and setback requirements for development on sites subject to the existing mapped open space network.

Efficiency

The existing policies and methods are efficient because they clearly identify the key requirements for the areas subject to the existing open space zones.

Alternative controls for Intensification Policy 3 (Section 77Q (1)(b))

Standards	Policy 3	Alternative
Policy 3 (c) (ii)		
Building height	Enable building height of minimum 6 storey	The maximum building height for each open space zone is as follows: <ul style="list-style-type: none"> • Natural Open Space Zone = 5m (1 - 2 storey) • Neighbourhood Open Space Zone = 5m (1 - 2 storey) • Sport and Recreation Open Space Zone = 8m (2 – 3 storey) • Destination Open Space Zone = 12m (3 – 4 storey)

Policy 3 (d)		
Density/ Building Height	Commensurate level	<p>The maximum building height for each open space zone is as follows:</p> <ul style="list-style-type: none"> • Natural Open Space Zone = 5m (1 - 2 storey) • Neighbourhood Open Space Zone = 5m (1 - 2 storey) • Sport and Recreation Open Space Zone = 8m (2 – 3 storey) • Destination Open Space Zone = 12m (3 – 4 storey)
Assessment for the level of development enabled by Policy 3 Section 77Q (1)(d)		
<p>It is considered that providing for height limits on the open space zones of the walkable catchment and adjacent to centres will have no impact on development capacity due to the small number of sites and areas affected. In particular, as PC12 is not proposing to rezone these areas into residential zones, nor allowing or encouraging residential uses within open space zones, this is considered to have no impact on development capacity as residential uses are not envisaged within these zones.</p>		

2.12 Industrial Zones

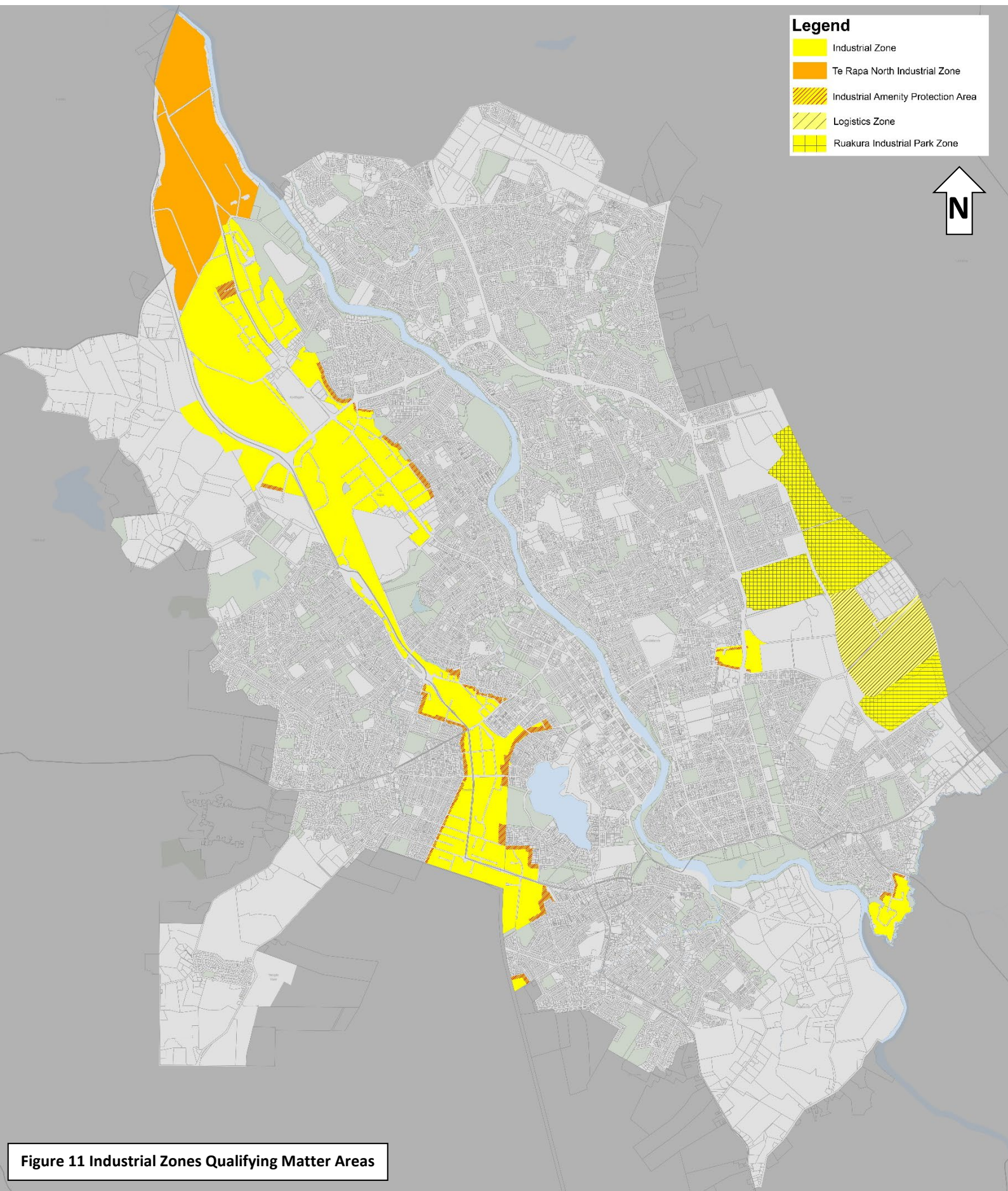


Figure 11 Industrial Zones Qualifying Matter Areas

Requirement to provide sufficient business land: Business Zones (Business Zones 1 – 6) and Industrial Zones

This qualifying matter applies to the Industrial and Business Zone areas mapped in Figure 11 above which would otherwise be subject to the requirement to implement Policy 3 of the NPS-UD.

Location where the qualifying matters apply? (Section 77Q (1)(a))

- Each Industrial Zones, as shown in yellow in ODP Zoning Map above, that required to give effect to the density and building height requirements under policy 3 in that zone

Existing planning provisions and policy framework in the ODP

The matter in relation to Industrial Zones is currently in Chapter 9 of the ODP. The location and extent of the associated area is illustrated through the Zoning Map of the ODP.

There are objectives and policies in the ODP, and there are also bespoke planning controls for building heights as below:

- (For industrial zoned sites) Rule 9.4.2 Building height
 - 20m, except 10m for that part of the building located within the Amenity Protection Area

Why this qualifying matter applies to that location (Section 77Q (1)(c))

Business zones and Industrial zones in the ODP are the business lands that are zoned for business uses in urban environment, as per the definition of NPS-UD. These sites and areas are critical to ensure Hamilton can meet the demand and supply for housing and for business land. Policy 3 requires some of these zones to be amended and to allow for at least 6 storeys building height for those located within the walkable catchment from Central City Zone and have a commensurate level of building height and densities for certain types of commercial centres.

As part of Plan Change 12, building heights with the business zones that subject to Policy 3 requirements will be amended to enable 6 storey building as minimum (maximum height as 21m). No change is proposed for areas within Industrial Zones. Continuing the existing provisions for industrial zones will result in a limitation on development opportunities due to the height restrictions, in particular, generally non-residential buildings will require greater height for each floor in comparison to residential buildings.

It is proposed to retain the industrial zones unchanged, including building height provisions. The existing building heights for the industrial zones are suitable for the establishment of industrial and business buildings. The more restrictive standards are designed to create a transition from an industrial environment to the adjoining lands with sensitive uses, in particular, the Residential Zone or Open Space Zone. Therefore, having the building height standards would be considered to have wider benefits to environmental, cultural, economic and social outcomes.

Evaluation of reasonably practicable options

Option	1. Status quo – specific standards and consenting framework for certain activities and non-compliance (Preferred)	2. No limits or standards in the qualifying matter area
Relevance	This option will ensure the continued provisions, operation and maintenance of the business zone and industrial zone.	This option will potentially result in damage and become unsafe for the operation and use of business and industrial land.
Achievability	The exiting standards and consent requirements already exist to provide to ensure Hamilton can meet the	These standards already exist and this option will require a change to the existing framework.

	demand and supply for housing and for business land.	
Reasonableness	The status quo enables these sites and areas meeting the demand and supply for housing and for business land, to continue providing for the social, economic, and cultural wellbeing of a community.	By not having any standards or limits, there is a potential for these areas to be built out, which may fail to provide a transition from an industrial environment to the adjoining lands with sensitive uses, in particular, the Residential Zone or Open Space Zone.

Evaluation of Preferred Option Against Objective(s)

Costs

Places restrictions on how buildings are to be designed

Benefits:

The amenity of surrounding neighbourhoods and the functions and values of relevant zones can be protected, without being compromised by other activities and land development.

The height standards for industrial zones are considered a relatively generous standard that enables high levels of utilization of business and industrial land.

Risk of acting or not acting

The risks associated with acting are:

- Restricting development potential and reducing development flexibility due to different standards.
- Increased development costs due to design considerations.

The risks associated with not acting are:

- The features and elements in relation to the existing business and industrial land, are destroyed or lost, due to cumulative effects resulting from inappropriate developments.

There is sufficient information regarding the important values of these existing Qualifying Matters. The risks of adopting the existing provisions and rules as a way to modify Policy 3, to ensure the protection, maintenance and where possible the enhancement of these Qualifying Matters, are far outweighed by the risks of not acting.

Effectiveness

The existing policies and methods are effective in achieving the objective because they provide a framework that reflects the specific consent requirements and setback requirements for development on sites subject to the existing business zone and industrial zone.

Efficiency

The existing policies and methods are efficient because they clearly identify the key requirements for the areas subject to the existing Industrial zones.

Alternative controls for Intensification Policy 3 (Section 77Q (1)(b))

Standards	Policy 3	Alternative
Policy 3 (c) (ii)		
Building height	Enable building height of minimum 6 storey	For industrial zoned sites, the maximum building height is 20m (5-6 storeys), except for that part of the building located within the Amenity

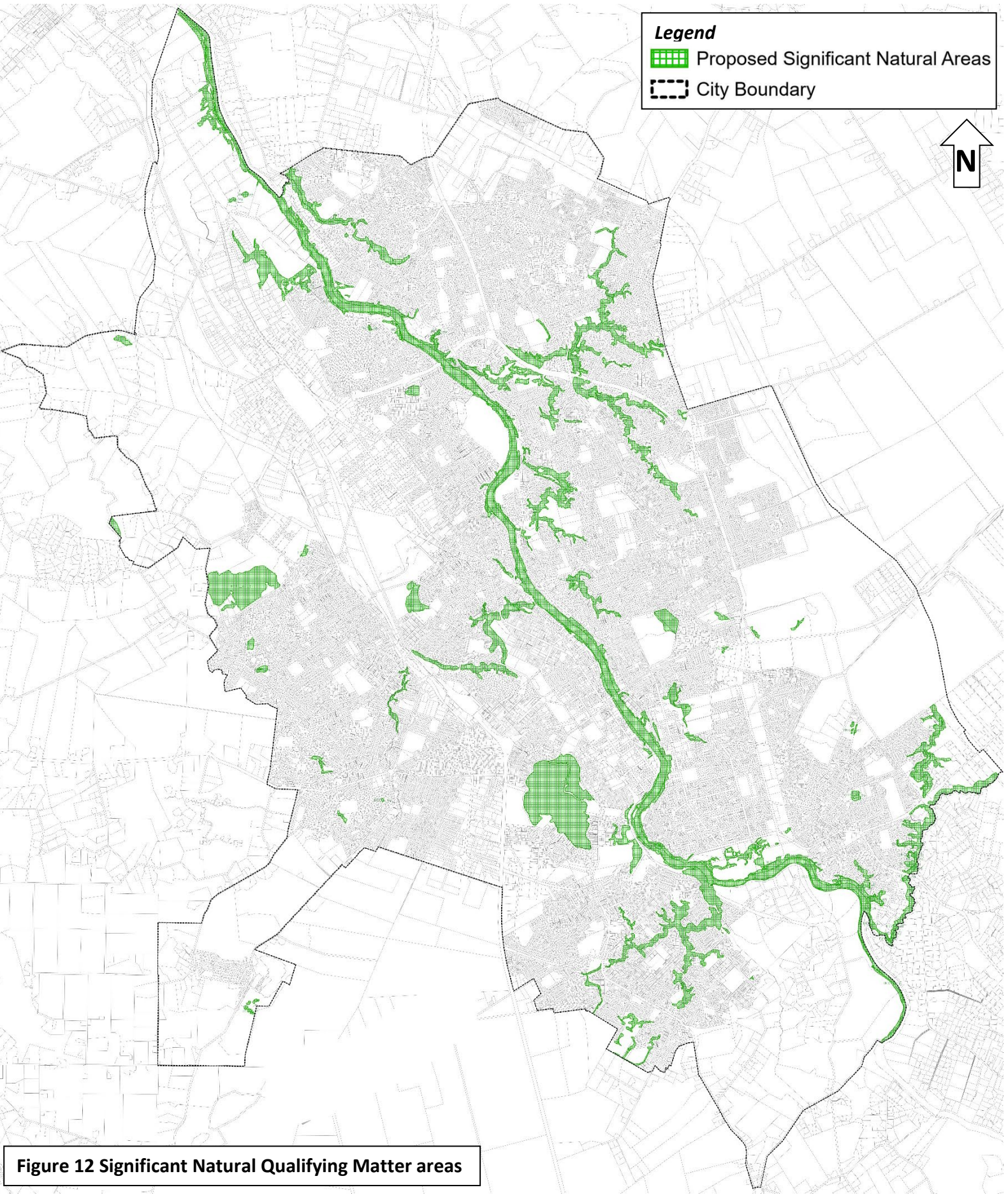
		Protection Area, the maximum building height is 10m (2-3 storeys).
Policy 3 (d)		
Density/ Building Height	Commensurate level	For industrial zoned sites, the maximum building height is 20m (5-6 storeys), except for that part of the building located within the Amenity Protection Area, the maximum building height is 10m (2-3 storeys).

Assessment for the level of development enabled by Policy 3 Section 77Q (1)(d)

It is considered that retaining the existing height limits on the industrial zones of the affected areas will have little impact on development capacity due to the small number of sites and areas affected, in particular, as PC12 is not proposing to rezone these areas into residential zones, nor allowing or encouraging residential uses (except ancillary residential activities) within industrial zones. With no changes proposed to rezone these areas into residential zones, it is not considered to have any significant impact on the potential development outcomes.

3. New Qualifying Matter Areas

3.1 Significant Natural Areas (as notified in Plan Change 9)



Protection of Significant Natural Areas (as notified in Plan Change 9) S6(c)

This Qualifying Matter applies to the Significant Natural areas mapped in Figure 12 above which would otherwise be subject to the requirement to implement the MDRS and Policy 3 of the NPS-UD.

Justification and rationale of such areas are subject to a qualifying matter (Section 77J (3)(a)(i))

Areas to be scheduled and recognized as a Significant Natural Area (SNA) in the ODP are a matter of national importance. Decision makers are required to recognise and provide for these under section 6 (c) of the Act, which sets out a key consideration for indigenous biodiversity and a function of every territorial authority under the RMA to provide for the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna. It also provides for the maintenance of indigenous biological diversity, which is identified as a function of every territorial authority in giving effect to the Act (Section 31(1)(b)(iii)).

All areas with significant natural values were identified by qualified ecologists as part of Plan Change 9 and are scheduled in Appendix 9, Schedule 9C of Plan Change 9 (notified version) for protection, with the location and extent of these areas illustrated through the Features Map. The matter in relation to SNA is contained within Chapter 20 Natural Environment of Plan Change 9 (notified version), which contains objectives, policies, rules and provisions to achieve ongoing protection of areas with significant indigenous vegetation and significant habitats of indigenous fauna values.

As detailed in the Ecological Report provided with Plan Change 9, the provisions within Plan Change 9 (notified version) are based on current best practices for managing indigenous biodiversity, they align with the anticipated direction in the proposed NPS-IB, and the relevant provisions in the RPS.

On this basis, it is considered practical and reasonable to adopt the identified SNAs in Plan Change 9 (notified version) and recognise these areas as one of the Qualifying Matters as listed in Section 77I and Section 77O of the HSAA.

Justification and rationale of why such areas are incompatible with the level of development permitted by the MDRS and Policy 3 (Section 77J (3)(a)(ii))

The HSAA requires all applicable residential zones to incorporate MDRS as part of the ODP, and this includes allowing residential intensification to occur without the need for a resource consent within the areas that are identified and scheduled as SNAs. The HSAA also requires higher density and building height be enabled in areas subject to Intensification Policy 3.

As evidenced in the Ecological Report provided with Plan Change 9 and all other existing information held by HCC, there are evidence proven that SNAs are sensitive to new buildings and activities and have high ecological and biodiversity values. Without a high level of control over such activities, there is a risk these values will be damaged or irreparably lost.

The location and the extent of the SNAs over each individual residential site varies, however, MDRS and Policy 3 areas provide for a high level of development density which may be incompatible with these values. In particular, there is a high potential for physical works to degrade or damage the ecological values of these areas. For example, the removal of vegetation within the SNAs for larger developable areas and greater intensification and/or reduced setbacks for building positions. Therefore, it is important for HCC to have controls and standards to protect the significant indigenous vegetation and significant habitats of indigenous fauna values in relation to the SNAs, as a way to accommodate this Qualifying Matter from inappropriate intensification and associated works in the residential areas that either partially and/or wholly subject to the SNAs.

It is worth noting that Policy 3 does not preclude the requirement for a resource consent and any modifications to accommodate the Qualifying Matter will be limited to the requiring building height and/or densities. Therefore, activities within the SNAs themselves may still be subject to the requirement of a resource consent.

Alternative controls for MDRS

Standards	MDRS	Alternative
Activity Status	Permitted	<p>Resource consent as a Restricted Discretionary Activity within the identified SNAs for the following activities:</p> <ul style="list-style-type: none"> • Additions to, or the replacement of any existing building or structure that is proposed to exceed the existing envelope or footprint in an SNA • Construction of new public walkways and cycleways through an SNA <p>Resource consent as a Non-Complying Activity within the identified SNAs for the placement and/or construction of any new building or structures.</p>

Alternative controls for Intensification Policy 3

- No alternative proposed

Assessment of impacts of limits on development capacity Section 77J (3)(b)

To accommodate the Qualifying Matter in relation to the SNAs, it is proposed to require resource consent for certain activities, including construction of new buildings and changes to existing buildings that are for residential activities.

The MDRS and Policy 3 standards are not modified in this instance, and the requirement of resource consent within the SNAs will require site-specific consideration for the development, in particular, on the protection of ecological and biodiversity values, which may result in a lesser level of development compared with the level of development that has been enabled by MDRS and/or Policy 3. This may require that new buildings occur outside of the SNAs, thereby reducing the overall developable area of a site and in some cases, this may reduce the attainable unit yield for a site.

Nevertheless, areas outside of the identified SNAs can still be developed in accordance with the MDRS and Policy 3 in the underlying residential zones. SNAs were also considered in the Capacity Modelling. SNAs are located within the natural gully system of Hamilton and identified in the ODP as Gully Hazard Areas. Residential development within Gully Hazard Areas is a Discretionary Activity however these areas are entirely excluded from the Capacity Modelling.

PC12 proposes that any residential developments within SNA will be considered a Non-Complying Activity, the extension of SNAs proposed by Plan Change 9 (notified version) does not result in additional impact modelled capacity in relation to the intensification scenarios under MDRS and Policy 3 provisions in full, as development had already been excluded due to the approach to the existing Gully Hazard areas.

The non-complying activity status is often reserved for those activities where the potential adverse effects are great but do not necessarily warrant prohibition. In this particular instance, with the resource consent pathway is provided which may enable greater densities and/or building heights. These constraints are assessed in the resource consent on an individual site basis and likely subject to the extent of the effects of the ecological and biodiversity values of the affected areas. Whilst the controls may have some impact on

the financial feasibility for the development, it is overall considered that the ability for development is not precluded for the affected areas.

A description of how modifications to the MDRS and Policy 3, as applied to the relevant residential zones, are limited to only those modifications necessary to accommodate qualifying matters

The planning provisions and rules in relation to SNAs are contained in Chapter 20 Natural Environment of the ODP Plan Change 9 (notified version). The location and extent of the identified SNAs is illustrated through the Features Map as an overlay.

The planning provisions in relation to SNA will only apply and limit the extent of the identified areas. For areas outside of the identified SNAs, the ODP is still enabling the implementation of MDRS and/or Policy 3, which is a pragmatic response to enabling intensification and growth while protecting ecological values for which the SNA was scheduled.

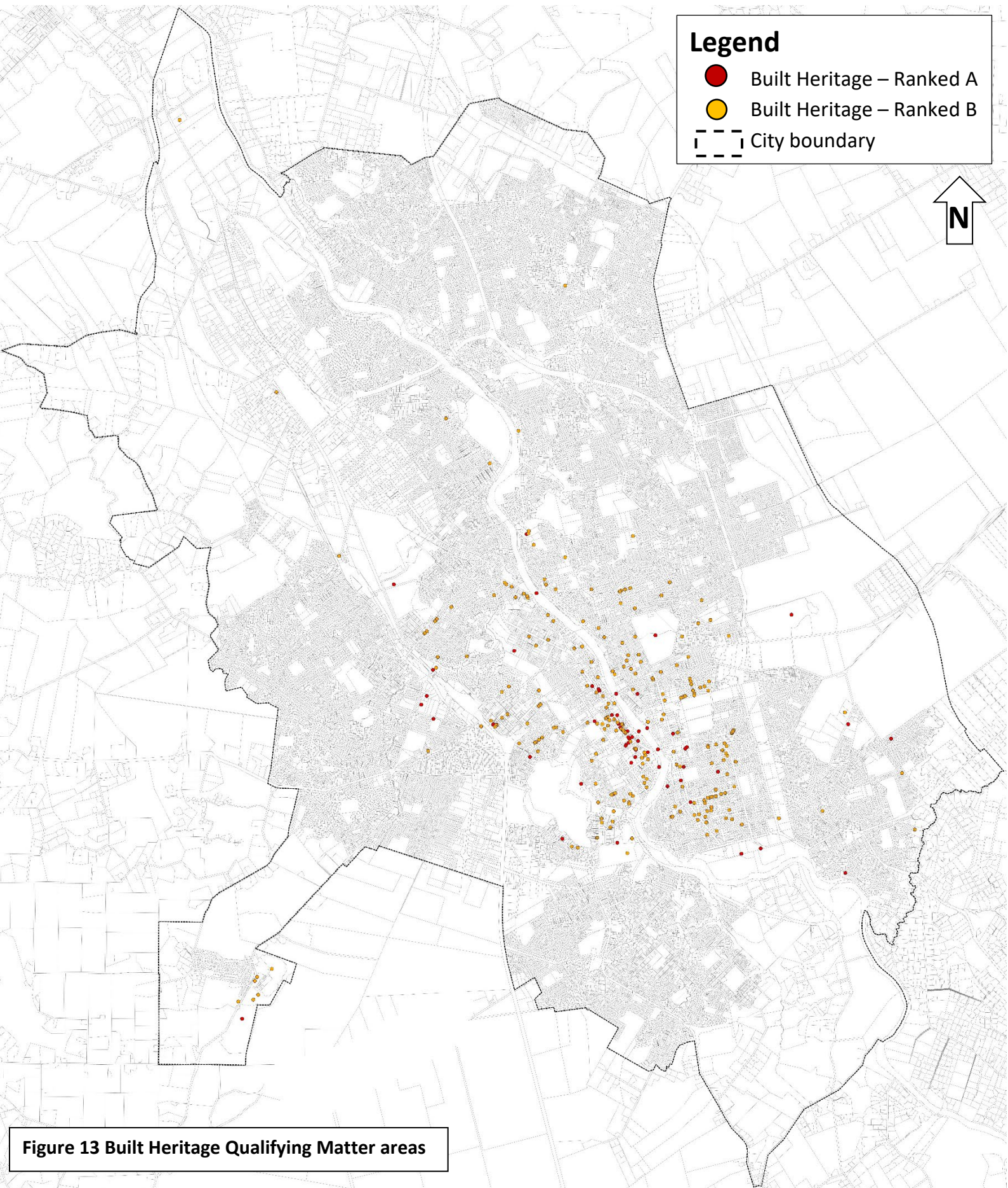
Assessment of the costs and broader impacts (Section 77J(3)(c))

Plan Change 9 (notified version) identified that there are environmental, economic, social and cultural benefits from adopting the identified SNAs and the associated planning controls as a way to accommodate this Qualifying Matter, in particular:

- From the protection of areas with significant ecological and biodiversity values.

In terms of economic costs, there may be increased costs due to the potentially reduced developable areas for the implementation of MDRS and/or Policy 3. In addition, there will be economic costs associated with obtaining resource consents within SNAs for increasing the footprint or envelope of buildings/structures or constructing new buildings.

3.2 Built Heritage (as notified in Plan Change 9)



The protection of Built Heritage (as notified in Plan Change 9) S6(f)

This Qualifying Matter applies to Built Heritage areas mapped in Figure 13 above which would otherwise be subject to the requirement to implement the MDRS and Policy 3 of the NPS-UD.

Justification and rationale of why such areas are subject to a qualifying matter (Section 77J (3)(a)(i))

Sites, buildings and structures, to be scheduled and recognized as a Built Heritage item in the ODP, are a matter of national importance that decision makers are required to recognise and provide for under section 6 (f) of the Act. This section requires consideration of the protection of historic heritage from inappropriate subdivision, use, and development.

Sites, buildings, and structures with significant historic heritage values were identified by qualified heritage experts as part of Plan Change 9 and are scheduled in Appendix 8, Schedule 8A of Plan Change 9 (notified version) for protection, with the location and extent of these areas illustrated through the Features Map. The matter in relation to built heritage is contained within Chapter 19 Historic Heritage of Plan Change 9 (notified version), which contains objectives, policies, rules and provisions to achieve ongoing protection of areas with significant heritage values.

As detailed in the Heritage Inventories and the s32 report of Plan Change 9 (notified version), all listed built heritage has significant heritage value and reflects the best practice and the national standards in relation to heritage buildings value assessment.

On this basis, it is considered reasonable to adopt the identified built heritage in Plan Change 9 (notified version) and recognize the sites containing these built heritages as one of the Qualifying Matters, as listed in Section 77I and Section 77O of the HSAA.

Justification and rationale of such areas are incompatible with the level of development permitted by the MDRS and/or Policy 3 (Section 77J (3)(a)(ii))

The HSAA requires all applicable residential zones to incorporate MDRS; and higher density and building height be enabled in areas subject to Intensification Policy 3, in areas encompassing built heritage items.

Rapid growth over the last decade has resulted in the redevelopment and intensification of residential sites, and in some circumstances, this led to the loss of heritage values. Some sites and areas subject to MDRS and/or Policy 3 also contain one or more built heritage items. The demolition and/or alteration and additions to existing built heritage buildings may allow for greater intensification and to implement the MDRS and/or Policy 3 to the full extent. However, any modifications or additions to these buildings risks damaging the heritage values associated with heritage buildings or structures. As such it will result in the permanent loss and/or damage of the heritage values of these built heritages. This would defeat the purpose of s6 of the RMA for the protection of historic heritage.

Therefore, as a way to accommodate this Qualifying Matter from inappropriate intensification and associated works, it is essential to adopt the planning controls and provisions to the areas and sites that are subject to the identified built heritages.

It is worth noting that Policy 3 does not preclude the requirement for a resource consent and any modifications to accommodate the Qualifying Matter will be limited to the requiring building height and/or densities.

Alternative controls for MDRS

Standards	MDRS	Alternative
Activity Status	Permitted	Resource consent is required for residential sites containing an identified built heritage for the following activities:

		<ul style="list-style-type: none"> • Alterations and additions to the existing built heritage • Demolition of the existing built heritage • Change of use of the existing built heritage • Relocation of the existing built heritage • Construction of accessory buildings and new buildings
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Alternative controls for Intensification Policy 3

- No alternative proposed

Assessment of impacts on development capacity Section 77J (3)(b)

To accommodate the Qualifying Matter in relation to built heritage, it is proposed to require resource consent for a range of activities for sites that contain one or more identified built heritage items. This also includes resource consent requirements for the construction of any new buildings, additions, and alterations to the existing built form and the change of use of the existing buildings.

Whilst there is no modification proposed to the MDRS and Policy 3, the requirement of resource consent will generally require site-specific considerations in relation to the design and layout of the future intensification or MDRS and Policy 3 development on the heritage values of the existing built heritage. For example, this can include the design and position of any new buildings and the potential negative impacts of the heritage values on the existing built heritage onsite. Depending on the context of each individual site and development, mitigation of potential impacts through the resource consent process may decrease site yield depending on the type of constraint present.

The ODP identifies and schedules a total of 303 items of built heritage, including 182 which have been identified and scheduled through Plan Change 9 (notified version). As such, it is considered any impacts on the level of development by accommodating this qualifying matter will be limited to the 303 sites containing these scheduled buildings and structures. As the constraint only applies to a small portion of the overall city, it is considered the alternative provision will not significantly affect the level of development enabled by the MDRS and Policy 3, in comparison with the level of development that would have been enabled by MDRS and Policy 3.

A description of how modifications to the MDRS and Policy 3 as applied to the relevant residential zones are limited to only those modifications necessary to accommodate qualifying matters

The planning provisions and rules in relation to built heritage are contained in Chapter 19 of the ODP Plan Change 9 (notified version). The location and extent of the identified built heritages is illustrated through the Features Map as an overlay.

The planning provisions will only apply to the sites and areas that contain an identified built heritage. For sites and areas that are adjacent or adjoining these affected sites, the ODP is still enabling the implementation of MDRS and/or Policy 3, which is a pragmatic response to enabling intensification and growth while protecting heritage values for which the built heritages are scheduled.

Assessment of the costs and broader impacts (Section 77J(3)(c))

Plan Change 9 (notified version) identified that there are environmental, economic, social and cultural benefits from adopting the proposed built heritage and the associated planning controls as a way to accommodate this Qualifying Matter, in particular:

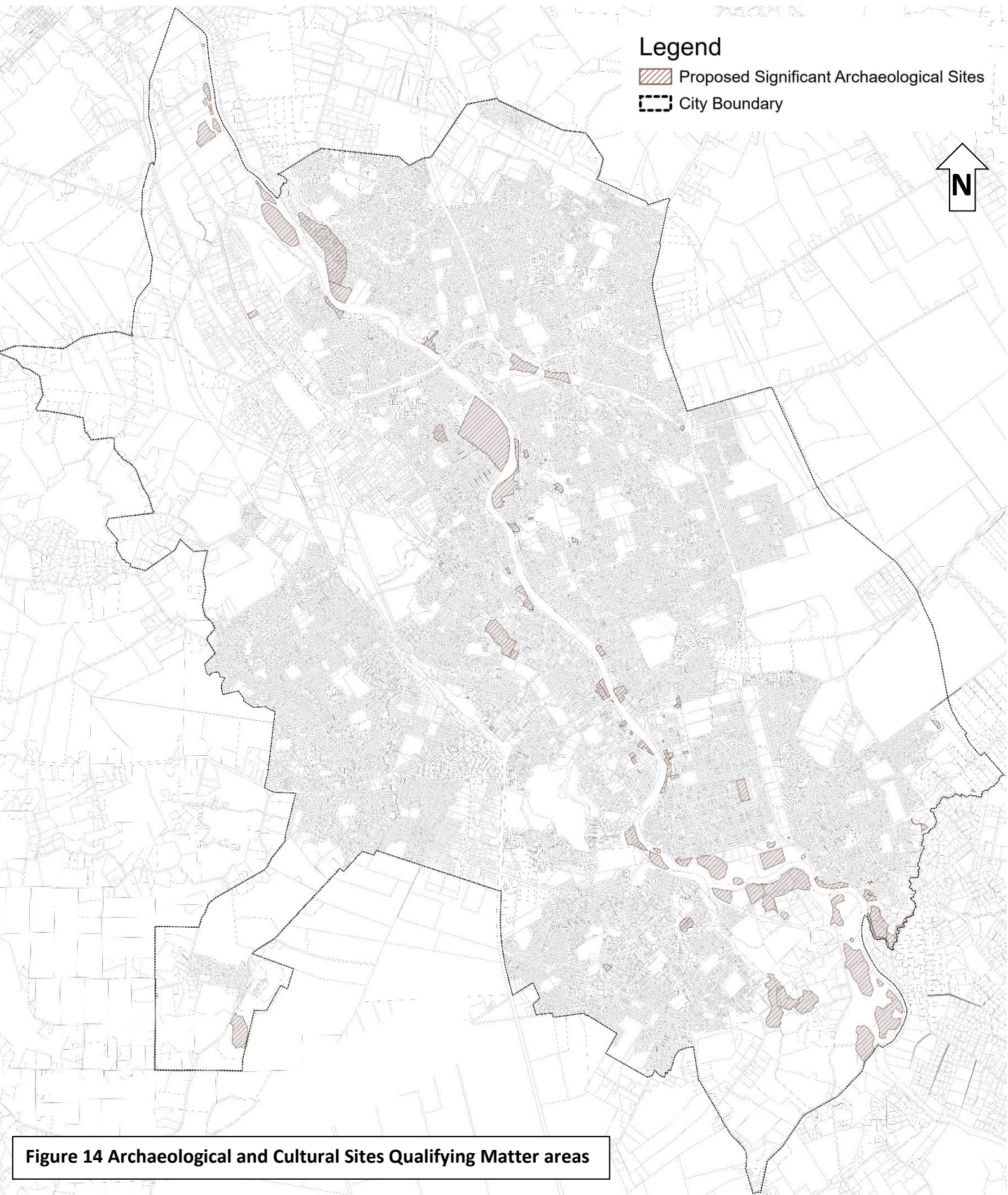
- Environmental, social, and cultural benefits of protection of areas subject to significant heritage values that are of significance to the history of the City.
- Enabling development through a resource consent pathway within the sites and areas containing built heritage items will provide economic and social benefits by enabling a level of residential development commensurate to the built heritage value.
- There may be additional design costs associated with requiring a careful approach to

development within sites and areas that include a built heritage item. A comprehensive approach will provide a higher quality design outcome which retains the heritage value.

In terms of costs, there may be potential environmental, social and cultural effects associated with enabling developments within the sites and areas containing built heritage if the adverse effects are not correctly managed.

In terms of economic costs, there may be increased costs due to the potentially reduced developable areas for the implementation of MDRS and/or Policy 3. In addition, there will be economic costs associated with obtaining resource consents for sites and areas that contain one or more built heritage.

3.3 Archaeological and Cultural Sites (as notified in Plan Change 9)



The protection of Archaeological and Cultural Sites (as notified in Plan Change 9) S6(f)

This Qualifying Matter applies to the Archaeological and Cultural Sites areas mapped in Figure 14 above which would otherwise be subject to the requirement to implement the MDRS and Policy 3 of the NPS-UD.

Justification and rationale of such areas are subject to a qualifying matter (Section 77J (3)(a)(i))

Hamilton has many sites of historic and cultural significance that are archaeologically significant. Some of these are associated with European settlement, while others are significant to Waikato iwi and local hapuu. These sites are all recorded as archaeological and cultural sites in the ODP, as a matter of national importance under s6 of the RMA. In particular s6e of the Act requires that in relation to managing the use, development, and protection of natural and physical resources: the relationship of Maaori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga is recognised and provided for; and s6f of the Act requires the recognition and provision for the protection of historic heritage from inappropriate subdivision, use, and development.

All archaeological and cultural sites were identified by qualified experts as part of Plan Change 9 and are scheduled in Appendix 8, Schedule 8B and 8C of Plan Change 9 (notified version), with the location and extent of these areas illustrated through the Features Map. The matter in relation to built heritage is contained within Chapter 19 Historic Heritage of Plan Change 9 (notified version), which contains objectives, policies, rules and provisions to achieve ongoing awareness and protection of any archaeological discovery.

As detailed in the Archaeological and Cultural Sites Inventories and the s32 report of the Plan Change 9 (notified version), all listed sites as part of Plan Change 9 sufficiently meet the significant heritage value requirements and they are all recorded in the NZAA database.

On this basis, it is considered practical and reasonable to adopt the identified archaeological and cultural sites from Plan Change 9 (notified version) and recognize the sites containing these areas as one of the Qualifying Mattes as listed in Section 77I and Section 77O of the HSAA.

Justification and rationale of such areas are incompatible with the level of development permitted by the MDRS and Policy 3 (Section 77J (3)(a)(ii))

The HSAA requires all applicable residential zones to incorporate MDRS, this includes areas that are subject to the identified archaeological and cultural sites.

Many archaeological and cultural sites in the City are not visible on the surface but may have underground features and artefacts which could be disturbed or damaged through earthworks and construction. Digging foundations and other activities can damage historical sites, especially if there is a lack of awareness of historical significance or the potential to uncover historic features. Important features of a site (like filled-in trenches of a pa or kumara pits or building foundations) may still exist below the surface. Plan Change 9 (notified version) requires earthwork consents within sites subject to these archaeological and cultural features, with discretions generally limited to iwi and mana whenua consultation, earthworks processes, and accidental discovery. It is unlikely any of these considerations would have a major impact on the broad implementation of MDRS.

Alternative controls for MDRS and Policy 3

No alternative is proposed; however, it is noted that resource consent for earthworks will be required for sites and areas subject to an identified archaeological and cultural site, with the discretions of the consent are generally restricted to iwi and mana whenua consultation, and the earthworks process.

Assessment of impacts on development capacity Section 77J (3)(b)

All archaeological and cultural sites will be recorded and mapped on the Feature Map. As mentioned above, Plan Change 9 (notified version) requires resource consent for earthworks within sites subject to these archaeological and cultural sites. It is not considered that this would broadly restrict or limit the level of

development enabled by MDRS and Policy 3 on the basis of archaeological and cultural values. The level of constraint imposed on development may vary from site to site.

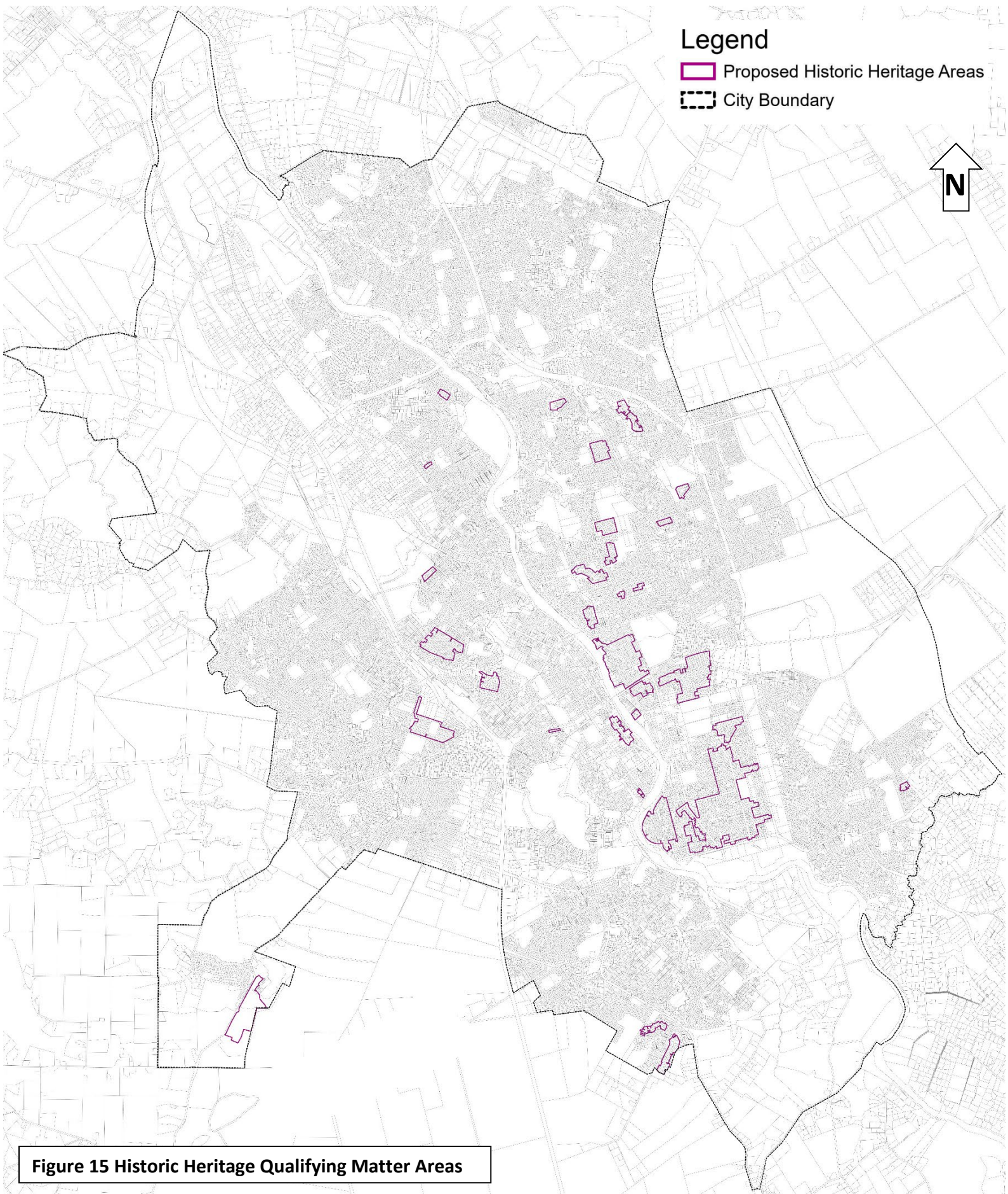
A description of how modifications to the MDRS and Policy 3 as applied to the relevant residential zones are limited to only those modifications necessary to accommodate qualifying matters

Not applicable as no modification is proposed to accommodate this Qualifying Matter.

Assessment of the costs and broader impacts (Section 77J(3)(c))

There is no modification to MDRS and Policy 3 proposed therefore there is no assessment under s77J(3)(c) required. The recognition and protection of archaeological and cultural sites in the ODP, and the requirement of resource consent for earthworks within these affected sites and areas, will have wider environmental, social, cultural and economic benefits which have been addressed and detailed as part of Plan Change 9 (notified version).

3.4 Historic Heritage Areas (as notified in Plan Change 9)



Protection of Historic Heritage Areas (as notified in Plan Change 9) S6(f)

This Qualifying Matter applies to the Historic Heritage areas mapped in Figure 15 above which would otherwise be subject to the requirement to implement the MDRS and Policy 3 of the NPS-UD.

Justification and rationale of such areas are subject to a qualifying matter (Section 77J (3)(a)(i))

The protection of historic heritage from inappropriate subdivision use and development is a matter of national importance that decision makers are required to recognize, and provide for, under section 6 (f) of the Act. In particular, Part 1 of the RMA clearly indicates that historic heritage:

(a) means those natural and physical resources that contribute to an understanding and appreciation of New Zealand’s history and cultures, deriving from any of the following qualities:

- i. archaeological:*
- ii. architectural:*
- iii. cultural:*
- iv. historic:*
- v. scientific:*
- vi. technological; and*

(b) includes—

- i. historic sites, structures, places, and areas; and*
- ii. archaeological sites; and*
- iii. sites of significance to Māori, including wāhi tapu; and*
- iv. surroundings associated with the natural and physical resources.*

The scope of Plan Change 9 (notified version) for Historic Heritage Area is to identify and schedule areas with heritage values. A total of 32 areas in Hamilton are identified having historic heritage significance to the development of Hamilton City and having heritage value locally, regionally or nationally. The matter in relation to historic heritage areas is contained within Chapter 19 Historic Heritage of Plan Change 9 (notified version), which contains objectives, policies, rules and provisions to achieve identification and ongoing protection of these sites and areas with significant heritage values. All of these areas are scheduled in Volume 2, Appendix 8: 8D – Historic Heritage Area as part of Plan Change 9 (notified version), with these areas illustrated through the Features Map.

All historic heritage areas are identified by qualified heritage experts and supported by a Historic Heritage Statement to outline the significant heritage values of these areas, as detailed in the s32 report of Plan Change 9 (notified version) and the Historic Heritage Area Assessment. The methodology and criteria developed to identify these areas are based on current best practices for assessing and identifying historic heritage, and they align with the relevant provisions in the RPS.

On this basis, it is considered practical and reasonable to adopt the identified historic heritage areas in Plan Change 9 (notified version) and recognise the sites and areas within these areas as one of the Qualifying Matters as listed in Section 77I and Section 77O of the HSAA.

Justification and rationale of why such areas are incompatible with the level of development permitted by the MDRS and Policy 3 (Section 77J (3)(a)(ii))

The HSAA requires all applicable residential zones incorporate MDRS into the ODP, this includes allowing residential intensification to occur within sites and areas that locate within one of the identified HHAs. The HSAA also requires higher density and building height be enabled in areas subject to Intensification Policy 3.

As detailed in the s32 of the Plan Change 9 (notified version):

“The heritage value for an area is determined and influenced by its representativeness of a period of development, as well as the consistency in physical and visual qualities. The representativeness reflects such area represents its historic heritage significance in the development of the City.

The physical and visual qualities are attributes to the heritage values, and they include the consistencies of:

- a) street and block layout,*
- b) street design and street trees,*
- c) lot sizes, dimensions and development density,*
- d) lot layout and position of buildings and structures on site,*
- e) topography and natural environment,*
- f) architecture and building typologies and*
- g) street frontage treatments.*

The values of these heritage areas can be compromised by site redevelopment, infill development, demolition of existing buildings and structures, additions and alterations of existing buildings, and additions of other buildings and structures such as accessory buildings, fences and retaining walls if these have little regard to the area’s representatives and consistencies of those heritage attributes.

Design and layout of the sites and the placement of buildings are critically important, (...). Standards have been placed on the use, development and demolition of buildings to manage change in these areas.”

Intensification and development under MDRS, for example having additional residential units or constructing duplexes and/or apartments in replacement of existing dwellings on a site, will lead to the loss and/or damage of the heritage values of these areas and defeat the purpose and intention of s6 of the RMA in this matter. Similar to the implementation of MDRS, greater building heights and/or densities as required under Policy 3 on these sites and areas will potentially result in changes to the design, position and layout of the built environment of the HHAs, which will then damage the historic heritage values of these HHAs.

Therefore, the constraint posed by this Qualifying Matter is based on protection from inappropriate intensification and associated works. To do this it is essential to identify where the HHAs are and to introduce the following planning controls and provisions as modifications to the MDRS and Policy 3.

Alternative controls for MDRS

Standards	MDRS	Alternative
Activity Status	Permitted	Resource consent is required for residential developments within the identified HHAs for the following activities: <ul style="list-style-type: none"> • Accessory buildings (RDA) • Ancillary residential units (RDA) • Detached dwelling (RDA) • Duplexes on a rear site within Hamilton East HHA (RDA) • Duplexes within Hayes Paddock HHA (DA) • Duplexes on front, corner or through site (NCA) • Apartments (NCA)
Density	Up to 3 residential units	The following density provisions will apply: <ul style="list-style-type: none"> a. Single dwellings - front, corner and through site (including relocated dwellings) (per unit) = min. 600m²

		<p>b. Single dwellings – rear site (including relocated dwellings) (per unit) = min. 400m²</p> <p>c. Duplex dwellings (per residential unit) = min. 600m² (300m² per Duplex)</p> <p>d. Single dwellings with an ancillary residential unit on a front, corner or through site within an HHA (*total area for both dwelling and ancillary residential unit) = min. 700m²</p> <p>e. Single dwellings with an ancillary residential unit on a rear site within an HHA (*total area for both dwelling and ancillary residential unit) = min. 500m²</p>
Site coverage	50% maximum	<p>Front, corner or through site = max. 35%</p> <p>Rear Sites = max. 40%</p>
Building height	11m +1m maximum	<p><u>Front, corner and through site</u> All buildings shall have a maximum height of:</p> <ol style="list-style-type: none"> 1. The original height of the building on the subject site; or 2. The average of the existing heights of buildings on adjacent sites, being the three sites on either side of the subject site or six sites on one side of the subject site <p>Whichever is higher</p> <p><u>Rear site</u> All buildings shall have a maximum height of 8m and maximum two storeys</p>
Height in relation to boundary	4m plus 60deg recession plane	<p>All other directions = 3m plus 45deg recession plane</p> <p>Directions between northwest (315 degrees) and northeast (45 degrees) = 3m plus 28deg recession plane</p>
Setbacks	<p>Front yard = 1.5m</p> <p>Side yard = 1m</p> <p>Rear yard = 1m</p>	<p>Front, corner and through site <u>Front yard:</u> All buildings shall be set back from the boundary the greater of:</p> <ol style="list-style-type: none"> 1. The front setback of the original building on the subject site; or 2. The average of the existing front setback of buildings on adjacent sites, being the three sites on either side of the subject site or six sites on one side of the subject site <p><u>Side and rear yards</u></p> <ol style="list-style-type: none"> 1. For Hamilton East and Claudeland West HHAs <ul style="list-style-type: none"> • One side boundary = min. 3m • Other side boundary and rear boundary = min. 1.5m 2. For all other HHAs = min. 1.5m

		<p><u>Setbacks for garage positions</u> Where a garage or carport is provided that faces a transport corridor it shall be set back:</p> <ol style="list-style-type: none"> 1. a minimum of 8m from the front boundary; or 2. a minimum of 0.5m behind the front façade of the building on the site <p>whichever creates the greater setback from the front boundary.</p> <p>Rear sites</p> <ol style="list-style-type: none"> 1. All yards = 1.5m
Landscape area	Minimum 20%	<p>Permeability across the entire site (including the area required below) = minimum 40%</p> <p>Front sites, corner sites and through sites only = minimum 80% of the front setback to be planted in grass, shrubs or trees</p>

Alternative controls for Intensification Policy 3 (Section 77K (1)(b))

Standards	Policy 3	Alternative
Policy 3 (a)		
Building Height	Maximum	<p><u>Front, corner and through site</u> All buildings shall have a maximum height of:</p> <ol style="list-style-type: none"> 1. The original height of the building on the subject site; or 2. The average of existing heights of buildings on adjacent sites, being the three sites on either side of the subject site or six sites on one side of the subject site <p>Whichever is higher</p> <p><u>Rear site</u> All buildings shall have a maximum height of 8m and maximum two storeys</p>
Policy 3 (c) (ii)		
Building height	Enable building height of minimum 6 storey	<p><u>Front, corner and through site</u> All buildings shall have a maximum height of:</p> <ol style="list-style-type: none"> 1. The original height of the building on the subject site; or 2. The average of existing heights of buildings on adjacent sites, being the three sites on either side of the subject site or six sites on one side of the subject site <p>Whichever is higher</p> <p><u>Rear site</u> All buildings shall have a maximum height of 8m and maximum two storeys</p>
Policy 3 (d)		
Density	Commensurate level	<p>The following density provisions will apply:</p> <ol style="list-style-type: none"> a. Single dwellings - front, corner and through site (including relocated dwellings) (per unit) = min. 600m² b. Single dwellings - rear site (including relocated dwellings) (per unit) = min. 400m²

		<p>c. Duplex dwellings (per residential unit) = min. 600m² (300m² per Duplex)</p> <p>d. Single dwellings with an ancillary residential unit on a front, corner or through site within an HHA (*total area for both dwelling and ancillary residential unit) = min. 700m²</p> <p>e. Single dwellings with an ancillary residential unit on a rear site within an HHA (*total area for both dwelling and ancillary residential unit) = min. 500m²</p>
Building Height	Commensurate level	<p><u>Front, corner and through site</u> All buildings shall have a maximum height of:</p> <ol style="list-style-type: none"> 1. The original height of the building on the subject site; or 2. The average of existing heights of buildings on adjacent sites, being the three sites on either side of the subject site or six sites on one side of the subject site <p>Whichever is higher</p> <p><u>Rear site</u> All buildings shall have a maximum height of 8m and maximum two storeys</p>

Assessment of impacts on development capacity Section 77J (3)(b)

To accommodate the Qualifying Matter in relation to the identified HHAs, it is proposed to require resource consent for a range of activities for sites and areas located within these HHAs. There are also modifications to density, site coverage, building height, height in relation to boundary, building setback and landscaping standards for MDRS and/or Policy 3.

It is acknowledged that the level of development of sites and areas within these HHAs will be reduced and/or restricted due to the proposed alternative standards, especially as these modifications include controls over the number of residential units which can be constructed on site, as well as the design and position of built form. The modifications are however considered essential for the protection of the heritage values of these areas and the retention of the design and form of the built environment, including the streetscape.

As detailed in the Development Capacity Modeling results, the alternative provision will have a small impact on the level of development capacity by accommodating the qualifying matter, in comparison with the level of development that would have otherwise been enabled by MDRS and Policy 3 in full. More specifically, the capacity modelling shows that, comparing to the capacity under MDRS and Policy 3 provisions in full, the implication of HHA and the associated planning controls will reduce total modelled capacity by 3%, which is generally equals to 8,600 dwellings. It reduces vertically attached apartment dwellings within the City Centre by 5%, and other capacity within the rest of the existing urban suburban area by 4%.

Nevertheless, it is important to recognise that there is still a resource consenting pathway which may enable a lesser amount of intensification in these areas where potential effects are considered to be appropriate. For housing typology that provides higher densities, such as apartments, a non-complying activity resource consent will be required. However, there is no prohibition of development. In this particular instance, the resource consent pathway is provided which may enable greater densities and/or

building heights. These constraints are assessed in the resource consent on an individual site basis and likely subject to the extent of the development being sympathetic to the heritage values of the areas, as well as the design, placement and layout of the development. Whilst the controls may have some impact on the financial feasibility for the development, it is overall considered that the ability for development is not precluded for the affected areas.

A description of how modifications to the MDRS and Policy 3 as applied to the relevant residential zones are limited to only those modifications necessary to accommodate qualifying matters

The planning provisions and rules in relation to the sites and areas located within an HHA are contained in Chapter 19 of the ODP Plan Change 9 (notified version). The location and extent of the identified HHA is illustrated through the Features Map as an overlay.

The planning provisions will only apply and be limited to the sites and areas that are located within the identified HHAs. For sites and areas that are adjacent to or adjoining these affected sites, the underlying residential zone rules apply and will therefore still enable for MDRS and Policy 3.

The rationale for each alternative is detailed in Appendix 2.3 – Evaluations of objectives, policies and rules. To avoid duplication, it is summarized the degree of modifications is appropriated and merited to conserve the design, position, and layout of the built environment, including the streetscape, in heritage areas where the design and layout of these areas are an important element of the heritage value. In particular:

- Different housing typologies and residential activities have a different status depending on their suitability for these historic heritage areas and whether they reflect the typical development eras of the area and they are compatible with identified physical and visual consistency of the area. As detailed in the Hamilton City Historic Heritage Areas Assessment provided with Plan Change 9, it is acknowledged that single detached dwellings as the dominant housing typology across the majority of these HHAs, as it reflects the development eras of these areas. Therefore, more intensified housing types, such as duplexes, townhouses and apartments, will be requiring closer scrutiny of effects and will be required resource consents as discretionary and those not appropriate are non-complying.
- The density, building coverage, building height, setbacks and height in relation to boundary standards are tailored to enable a certain scale and form of development that is currently reflected in the existing environment, for example, where the predominant building form is single-storied villas the standards would retain that building form, an important characteristic of the historic heritage areas.
- Requiring a minimum level of permeable surfaces and landscaping in the front yard reflects the frontage treatment of the existing environment of these heritage areas.

Assessment of the costs and broader impacts (Section 77J(3)(c))

There are environmental, economic, social and cultural benefits from having the alternative provisions as detailed in Plan Change 12, as a way to accommodate this Qualifying Matter, in particular:

- Environmental, social and cultural benefits of providing for the protection of areas subject to heritage values that are of significance to the development and history of the City.
- HCC will fulfill its duties under the Act, and in particular s.6f in relation to historic heritage areas. This provides a degree of certainty that historic heritage will be protected which is identified as a matter of national importance under section 6 of the Act.

In terms of costs, there may be potential environmental, social and cultural effects associated with enabling developments within the sites and areas within the HHAs if the adverse effects are not managed.

The provisions directing the protection of historic heritage areas may result in economic costs and may

restrict the development of individual sites from achieving the maximum potential development put forward through the MDRS and Policy 3. Accommodating historic heritage attributes in the provisions, like large site sizes and lower heights, will constrain development options from MDRS or Policy 3 outcomes. This will protect sites from the effects of development.

Many of these modifications will result in less choice of design and placement of dwellings, including additions to existing dwellings, and they will restrict any development options requiring removal or demolition of dwellings. In addition, there will be economic costs associated with obtaining resource consents.