

# **Plan Change 9 – Historic Heritage and Natural Environment**

## **Themes and Issues Report**

### **Hearing Session 1: Historic Heritage Areas; Significant Natural Areas; and Notable Trees**

**22 May to 7 June 2023**



Document: Plan Change 9 Historic Heritage and Natural Environment - Themes and Issues Report - Hearing Session 1: Historic Heritage Areas; Significant Natural Areas; and Notable Trees  
Date: 3 March 2023  
Prepared by: Craig Sharman, Yin May Soe, Emily Buckingham and Va Mauala  
Authorised by: Mark Davey – City Planning Manager, Hamilton City Council

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## 1.0 Introduction

### 1.1 Qualifications and Experience

This Themes and Issues Report for Plan Change 9 - Historic Heritage and Natural Environment (PC9) has been jointly prepared by Craig Sharman, May Soe, Emily Buckingham and Va Mauala. This report presents the themes and issues for Hearing Session 1: Historic Heritage Areas, Significant Natural Areas and Notable Trees.

My name is Craig Melville Sharman. I hold the qualifications of a Bachelor of Resource and Environmental Planning and a Master of Philosophy (Geography) from Massey University. I am a Senior Associate Planner for Beca Limited (Beca) based in Hamilton. I have 24 years' professional planning experience and have been a planner based in Hamilton since 2004. I worked for Hamilton City Council between 2004 and 2006 in consenting and policy roles and have been a planning consultant since 2006. As a result, I am highly familiar with the Hamilton City District Plan and with the strategic land use, growth management and environmental issues in and around Hamilton City. I have been a full member of the New Zealand Planning Institute since 2003. I have been involved in numerous district plan review and plan change processes over the past twenty plus years in a variety of roles. This includes being the lead planner for the South Waikato District Plan review process from 2009 to 2015, being a part of the project team for the Waipā 2050 District Growth Strategy and subsequent plan change process, preparing notices of requirement, managing stakeholder relationships and assisting with growth management processes on behalf of Council within the Rotokauri growth cell.

In respect of PC9 my involvement commenced in November 2022 when Beca was engaged to support Hamilton City Council (Council). My role is as the section 42A lead, and in respect of this report I have prepared the sections on procedural matters, 'general' submission points, and the higher order planning documents.

Va Mauala is a consultant planner with nine years of experience. Eight of those years she was employed with Auckland Council as a resource consent processing planner. Ms Mauala is currently employed by Beca as a Senior Planner. She holds a Bachelor of Planning (Hons) from the University of Auckland. In respect of PC9 her involvement commenced in December 2022. Ms Mauala's role on PC9 is as section 42A reporting planner on the submission points relating to Historic Heritage Areas (HHAs) and has prepared the HHA sections of this report.

Emily Buckingham has prepared the Significant Natural Area (SNA) specific sections of this report. Ms Buckingham is a consultant planner with 13 years of experience and works for 4Sight Consulting – Part of SLR. She holds a Bachelor of Planning (Hons) from the University of Auckland and is a full member of the New Zealand Planning Institute. In respect of PC9 her involvement commenced in December 2022. Her role on PC9 is section 42A reporting planner on the submission points relating to SNAs.

Yin May Soe is a graduate planner employed by Hamilton City Council. She has almost one year of experience in New Zealand working as a planner. Ms Soe holds a master's degree in Urban Planning (Professional) from the University of Auckland. In respect of PC9 Ms Soe's involvement commenced in mid-2022 and is the section 42A planner for the notable trees topic.

We have jointly prepared this Themes and Issues Report pursuant to section 42A of the Resource Management Act 1991 (RMA) and clause 9(a) of the Commissioner Directions #1 dated 2 December 2022. This report will be accompanied by a Planning Report with recommendations in response to the decisions sought by submitters, as per clause 9(c) of the Commissioner Directions #1 dated 2 December 2022.

## 1.2 Code of Conduct

We confirm that we have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023 and have complied with it when preparing this report. Other than when we state that we are relying on the advice of another person, this evidence is within our respective areas of expertise. We have not omitted to consider material facts known to us that might alter or detract from the opinions that we express.

The authors are authorised to prepare this report on behalf of Council to the Independent Hearing Panel (the panel).

## 1.3 Conflicts of Interest

There are several potential perceived conflicts of interest that are being managed. Beca nationally has in the past and is currently undertaking some work for submitter 428 Kāinga Ora – Homes and Communities. Neither Va Mauala or Craig Sharman is currently undertaking any work for the submitter, nor is Beca supporting the submitter with PC9 or Plan Change 12 - Enabling Housing Supply in any respect. Accordingly, there is not considered to be an actual conflict of interest in this regard.

4Sight Consulting also undertakes resource consenting work for submitter 428 Kainga Ora – Homes and Communities on an individual project basis. This work has not involved any resource consent applications relating to SNAs in Hamilton City. Emily Buckingham is not currently undertaking any of this work. Accordingly, there is not considered to be an actual conflict of interest in this regard.

In respect of submitter 422 Z Energy, planners within 4Sight Consulting have prepared the submission on behalf of the submitter. The Z Energy submission relates to heritage matters only, and Emily Buckingham is the section 42A reporting planner for the SNA topic. Accordingly, there is not considered to be an actual conflict of interest in this regard given the lack of cross-over between these topics.

## 2.0 Report Purpose

The purpose of this Themes and Issues Report is to assist the panel and submitters in preparing for Hearing Session 1. This report is also intended to assist the parties in preparing for the expert conferencing sessions on the Hearing Session 1 topics to be held between 14 and 20 March 2023. This report aims to outline the key themes and issues raised in submissions relevant to the Hearing Session 1 topics.

This Themes and Issues Report is effectively part 1 of the section 42A reporting for Hearing Session 1, with the Planning Report and detailed recommendations on the decisions sought by submitters being part 2 which is due for release on 6 April 2023. The Planning Report will review the themes and issues presented in this report, provide detailed analysis of the submissions and further submissions received, detail the key outcomes from the expert conferencing, and make recommendations in response to submission points in the form of a detailed table.

This report is structured around the three Hearing Session 1 topics of HHAs, SNAs and notable trees. There are also sections on the 'general' submissions topic, being cross-topic themes and issues regarding procedural matters, levels of consultation during formulation of PC9, financial support for landowners and various process matters.

For each of the above topics this report provides the following:

- Provides a summary of the background work undertaken
- Identifies the key submitters related to each topic
- Identifies key themes and issues as identified through analysis of submissions received
- Provides an overview of the relief sought through submissions based on identifying areas of commonality.
- Seeks to outline the specific issues related to each theme that are being raised through the submissions and additional work being done in response, and
- Sets out factors that the panel will need to consider in their decision making on specific issues.

**Section 3** of this report below provides an overview of PC9 and the background work undertaken. **Section 4** provides an overview of the proposed changes within PC9 to the Hamilton City Operative District Plan. **Section 5** provides analysis of the submissions received on each of the topics. **Section 6** provides a discussion of PC9 in the context of the higher order statutory planning documents, including a discussion of Part 2 RMA and how the topics respond to sections 6 and 7 RMA in particular. **Section 7** provides a section 32AA RMA update. **Section 8** then sets out a conclusion.

This report has been prepared in accordance with section 42A of the RMA to assist the panel in making decisions on the submissions and further submissions received on PC9. The report needs to also be read in conjunction with the technical reports prepared for each topic by the technical specialists on behalf of Council as plan change proponent.

The report purpose is also to provide submitters with clarity on broad Council responses to the relief being sought and the key issues identified, through 'sign posting' of anticipated responses. In many cases this is in the form of additional fieldwork being undertaken by the technical specialists for the topics to confirm or to revise Council positions, and/or to enhance the quality of mapping and scheduling of items. The report also enables the section 42A reporting planners to provide interim positions on matters, ahead of the expert conferencing. The Planning Report will be reflective of changes to those interim positions and to agreements reached within the expert conferencing.

## 3.0 Overview of Plan Change 9

The purpose of this section is to provide an overview of the three PC9 Hearing Session 1 topics and the work undertaken in their preparation.

This section is a summary of the fuller background material set out within the Section 32 Report titled '*Proposed Plan Change 9 – Historic Heritage and Natural Environments to Hamilton City Operative District Plan: Section 32 Evaluation Report*', dated 22 June 2022; and Appendix 2 to that report titled '*Explanation of the five matters addressed in Plan Change 9*'.

### 3.1 Background

The stated purpose of PC9 is to update the identification and protection of sites of historic heritage and natural environments within the Hamilton City Operative District Plan (the District Plan). All of the topics directly relate to 'matters of national importance' under the RMA, being section 6(c) in

respect of SNAs, section 6(f) in respect of historic heritage, and section 7(c) and (f) in relation to notable trees.

There are five topics within PC9, being Archaeological and Cultural Sites, SNAs, Notable Trees, Built Heritage, and HHAs. Archaeological and Cultural Sites, and Built Heritage are Hearing Session 2 topics set down for a hearing in November (and are not covered within this report).

As detailed within the Section 32 Report, background research and formulation of PC9 commenced in response to a Council resolution in 2019 where it was resolved to prepare a plan change broadly focusing on the District Plan provisions in respect of heritage, the character of the southern portion of Victoria Street, and the protection of Maaori heritage within the city. In 2020, Council further resolved to expand the scope of the plan change to undertake a stocktake of the city's built heritage resource, and a review of the notable trees scheduled in the District Plan. In 2021 the review of SNAs was also included in the preparation of PC9 to introduce significant habitats of indigenous fauna. In 2021, Council also resolved to identify and protect HHAs on a citywide basis.

In respect of these topics the District Plan currently identifies 122 built heritage structures, five special character areas, approximately 500 notable trees, 59 SNAs and 52 archaeological sites. This was considered an inadequate representation of the values within the city. For many of these topics the last thorough review to identify sites and District Plan provisions was as part of the 2012 District Plan Review.

Commencing in 2020, Council staff and consultants engaged and partnered with mana whenua in respect of Maaori heritage within the city and identification of archaeological sites. The latter was based largely on comparisons with the New Zealand Archaeological Association mapping and subsequent work to confirm values present. As a result an increase in the number of identified Archaeological and Cultural Sites is proposed via PC9. (Due to the extensive identification of Sites and Areas of Significance to Maaori within the City, Council, in consultation with mana whenua removed this topic from PC9. This decoupling will take the extensive work done to date on Sites and Areas of Significance to Maaori to continue to be understood in the context of the RMA and through other non-RMA processes.)

In respect of SNAs, the protection provisions were last reviewed in 2017, and much of the mapping (aside from the Peacocke Structure Plan area through the Plan Change 5 process) was based on mapping work completed in 2010. This previous work also focused on areas of indigenous flora and did not include areas of significant indigenous habitat for indigenous fauna species. This was considered a significant gap as the city includes other vegetation areas (predominantly in gullies and along the Waikato River) that are the habitat for several threatened and/or regionally uncommon indigenous species, notably the long-tailed bat (given that Hamilton is one of only a few cities in New Zealand where long-tailed bats are known to persist in an urban landscape).

In respect of notable trees, the existing scheduled notable trees in the District Plan were last reviewed as part of the 2012 District Plan Review using the RNZIH Method Evaluation from the Royal New Zealand Institute of Horticulture. This method has caused confusion through the assessment of resource consent applications for the removal of trees, and PC9 proposed to apply the Standard Tree Evaluation Methodology (STEM) method. This method, like the RNZIH method, measures a tree's attributes, but through a less complicated process and point scoring process than what is presently applied using the RNZIH methodology.

In respect of built heritage, Council last undertook a full stocktake of the city's built heritage in the late 1990s. The assessment work undertaken for PC9 has identified nearly 200 additional buildings or structures for protection that range from early 1900s buildings through to the late 1960s. The only other change to the existing schedule proposed is the removal of buildings that have been demolished following resource consent approvals to do so.

In respect of HHAs, a series of background historical and methodology reports were prepared (as detailed within the Section 32 Report). This work led to the identification of 32 HHAs proposed through PC9 that collectively represent the significant changes in the city's residential growth and development from the late 1800s up until the 1970s. The identification of these areas and related protection mechanisms aim to provide protection of those areas that have the greatest authentic examples of the significant growth periods of the city's past.

The appendices to the Section 32 Report include the various technical supporting reports prepared as part of the above work. This is further detailed in the following sections.

Whilst preparatory work on PC9 commenced in 2020, PC9 also has a relationship with Plan Change 12 – Enabling Housing Supply. Plan Change 12 is the city's response to the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 and the imposition of the Medium Density Residential Standards. The PC9 topics overlap with the statutory effect of Plan Change 12 being 'qualifying matters' under the above amendment act.

### 3.2 Plan Change 9 Process

PC9 was publicly notified under the RMA Schedule 1 process on 22 July 2022. This followed the Schedule 1, clause 4A RMA engagement process with mana whenua which commenced on 3 June 2022 where Council circulated a draft version of PC9 to statutory bodies and Waikato-Tainui as the iwi authority. In accordance with the clause 4A requirements the formal feedback received and the actions undertaken in response to those matters were summarised in Appendix 4 – Consultation to the Section 32 Report.

The submissions period closed on 2 September 2022 with 468 submissions received. The further submission period ended on 18 November 2022 with 338 further submissions received.

A full summary of decisions requested in submissions will be attached to the Planning Report in the form of a Recommendations Spreadsheet. In due course this should be referred to by all parties for the detail of the individual submission points, the provisions each submission point relates to, and recommendations to the panel in response to submission points in accordance with Schedule 1, clause 10 RMA prepared by the section 42A report authors in support of this report. This will be accompanied by a set of District Plan chapters and appendices displaying PC9 amendments as notified, and the section 42A Planning Report recommendations.

### 3.3 Procedural Matters

There is a procedural matter needing consideration by the panel. Whilst none of the primary submissions were received following the close of the submission period, there were several further submissions received after the further submission period ended on 18 November 2022. These are shown in the table below.

Plan Change 9 – 'Late' Further Submissions List	
Further Submitter Name	Received Date (number of days late)
David Edwin Whyte <b>(Second addendum part - Late Submission)</b>	<b>12/12/2022 (16 working days)</b>
Melvyn Reddington <b>(Late Submission)</b>	<b>21/11/2022 (1 working day)</b>
Cherie Trass and Brett Mathers <b>(Late Submission)</b>	<b>20/11/2022 (1 working day)</b>
Maninilavan Arivukkarasu <b>(Late Submission)</b>	<b>19/11/2022 (1 working day)</b>

New Zealand Training Centre - Dr Andrew Hutchison, Trustee (Late Submission)	21/11/2022 (1 working day)
Wayne Roberts (Late Submission)	22/11/2022 (2 working days)
S Bhardwaj (Late Submission)	30/11/2022 (8 working days)
Rachel Prasad (Late Submission)	16/12/2022 (20 working days)
Matthew Wardlaw (Late Submission)	22/11/2022 (2 working days)

The above 'late' further submissions were all received between one and twenty working days following the close of the further submission period. All were received prior to the further submissions being posted onto the Council website (13 February 2023) and well before expert conferencing in March 2023 and the hearing for Session 1 in May 2023.

It is recommended that the panel do **allow these 'late' further submissions** on the basis that no other parties have been prejudiced, nor would the process be compromised, by allowing them.

There are no other procedural matters.

### 3.4 Historic Heritage Areas

This section provides an overview of PC9 in relation to the HHA topic.

Under the RMA all Councils are required to have policies and rules in their district plans that protect heritage and the natural environment. Specifically, section 6(f) identifies matters of national importance and requires that the protection of historic heritage from inappropriate subdivision, use and development shall be recognised and provided for by all persons exercising functions and powers under the RMA.

Currently, the District Plan identifies 122 built heritage structures, five special character areas, and 52 archaeological sites. PC9 further assessed the above elements and identified a number of new elements that could be added to help ensure the city's unique heritage is protected.

#### *Review of Historic Special Character*

In 2020, Council commissioned a heritage expert, Carolyn Hill from Lifescapes Ltd, to undertake a strategic high-level overview of the historical special character across the city's residential areas and to identify areas that legibly present themes of historical and physical settlement patterns, architectural forms and landscape qualities. This purpose of this work was to assist Council's ongoing planning policy development as well as to maintain and enhance character qualities as a key part of the future development strategies required under National Policy Statement on Urban Development 2020 (NPSUD).

As a result of this work, twelve "Areas of Interest" were identified across the city, including areas that represent suburban development from the 1920s – 1970s. It is noted that this work did not examine the existing Special Residential Zones and Special Heritage Zones as identified in the District Plan as it was focused on potential additional areas.

In December 2020, Council commissioned the same heritage expert to undertake another study to re-examine the existing Special Residential Zones and Special Heritage Zones that are identified in the District Plan. The purpose of the study was to assist Council's preparations for giving effect to the NPSUD. Four "Study Areas" were identified for this work, being: Hamilton East, Claudelands, Frankton Railway Village and Hayes Paddock. The extent of each Study Area included the existing Special Residential Zones' and Special Heritage Zones' coverage plus additional streets in the vicinity where similar historic character attributes were present.



One of the key recommendations for the report was to redefine Frankton Railway Village and Hayes Paddock as scheduled Historic Heritage Areas and identify all original buildings as primary items under Chapter 19 of the District Plan, thereby to recognise their national historic heritage significance and to classify them as a 'matter of national importance' as per section 6 of the RMA.

Another key recommendation was to redefine the boundaries for Hamilton East and Claudelands study area and to consider identifying them as Historic Character Areas, which would remain under Chapter 5 of the District Plan and subject to the provisions within this chapter. The purpose of identifying these two areas as Historic Character Areas was to highlight and clarify the historic settlement period and architecture of these areas.

#### *Introduction of Historic Heritage Areas*

In 2021, Council resolved to introduce historic heritage areas as part of PC9. In May 2021, Council commissioned Richard Knott Limited to carry out a city-wide assessment identifying parts of the city which are of such heritage value locally, regionally or nationally that they should be identified as an HHA as part of PC9.

In preparation for the report, a methodology and a set of criteria for the identification of HHAs in Hamilton were developed, and site visits were made to the significant majority of streets within the city which contained a majority of pre-1980 buildings. Assessments were carried out at street, group of streets or at block level as appropriate and a total of 32 HHAs were identified. The report recommended to schedule all of the 32 HHAs in Appendix 8 of the District Plan, and to recognise these HHA with an overlay, with the underlying zoning to be retained. The report also recommended to develop appropriate provisions, including controls over the demolition of existing buildings and structures, the establishment of new buildings and structures, alterations and extensions and development on front, corner, through and rear sites, within Chapter 19 of the District Plan.

A copy of the Richard Knott Limited report is included in Appendix 9 to the Section 32 Report and is titled 'Hamilton City Historic Heritage Area Assessment' and dated 21 June 2022.

#### *Intent of Plan Change 9*

One objective and purpose of PC9 in respect of HHAs is to identify, schedule and map all historic heritage areas as identified in Richard Knott's technical assessment. Appropriate provisions to apply to these HHAs are to be incorporated into Chapter 19 of the District Plan. Accordingly, within PC9 the introduction of all objectives, policies and rules relating to HHAs are to be contained in Chapter 19; information requirements and assessment criteria to be used in the assessment of applications for resource consent will be contained in Appendix 1.2 and 1.3 of the District Plan; heritage assessment criteria for the evaluation of proposed works within HHAs are formulated for inclusion in Appendix 8, and within Schedule 8D Historic Heritage Areas the 32 HHAs will be identified (and are intended to represent a period of Hamilton's development as identified through a city-wide assessment against a pre-determined set of criteria).

The PC9 proposal is that the five existing special character areas will be replaced by the newly identified HHA's. These existing special character areas are:

1. Frankton Railway Village
2. Hamilton East
3. Hayes Paddock
4. Claudelands West and
5. Temple View.

The proposed PC9 definition of a HHA is:

*“Means an identified area with historic heritage value which are representative of their development period, and are consistent in their physical and visual qualities, including street pattern, lot layout and density, green structure, housing typologies and street frontage treatments”.*

#### *Historic Heritage Area Assessment Methodology*

The following is a summary of the methodology and assessment criteria for scheduling areas with historic heritage values:

- The historic significance of an area is linked to whether it is representative of a period of development which has historic heritage significance in the development of the city, as well as the consistency in physical and visual qualities.
- Five heritage themes have been identified as they collectively and individually hold a significant historic heritage value to the development history of Waikato region and Hamilton City from 1850s to late 1970s, being:
  - Early establishment of a service town
  - Railway workers suburbs
  - Comprehensive State Housing Schemes and Control by the State Advances Corporation
  - The construction company era,
  - The dominance of the private car and changing suburban form
- 'The area displays consistency in physical and visual qualities that are representative of their identified Heritage Theme. Seven physical and visual qualities are identified and collectively they constitute the consistency criterion:
  - 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 onsite
  - e) topography and natural environment
  - f) architecture and building typologies and
  - g) street frontage treatments.
- To be recommended for inclusion in a future HHA, any street must be of representative of one of the Heritage Themes which has historic heritage significance in the development of the city; and achieves an overall score of 5 to 7 against the consistency criterion.

#### *Context and Statistics*

The study focused on residential areas; non-residential areas were not part of the study, apart from Temple View (which was already recognised as a Heritage Zone and Character Area) and Victoria Street for which Richard Knott had already completed a draft study.

Collectively, the HHA's cover approximately 2.6 % of the land within the city's jurisdiction, and there are 2796 residential sections (or approximately 5.5% of all sections) that fall within the 32 proposed HHA's. With the exception of the Victoria Street HHA (Central City zone), HHA's currently have an underlying residential zoning, that includes:

- General residential zone
- Special residential zone
- Special heritage zone
- Residential intensification zone

Comparing special residential zones with the proposed HHA's:

- Under the District Plan, there are approximately 3010 properties within the special residential zone
- Approximately 65% fall within a newly identified HHA

There are approximately 1100 properties that are currently not zoned as either special residential or special heritage, that are now included within a proposed HHA. Post-1980 streets were not visited or assessed. The 32 identified HHA's, are shown in Figure 1.

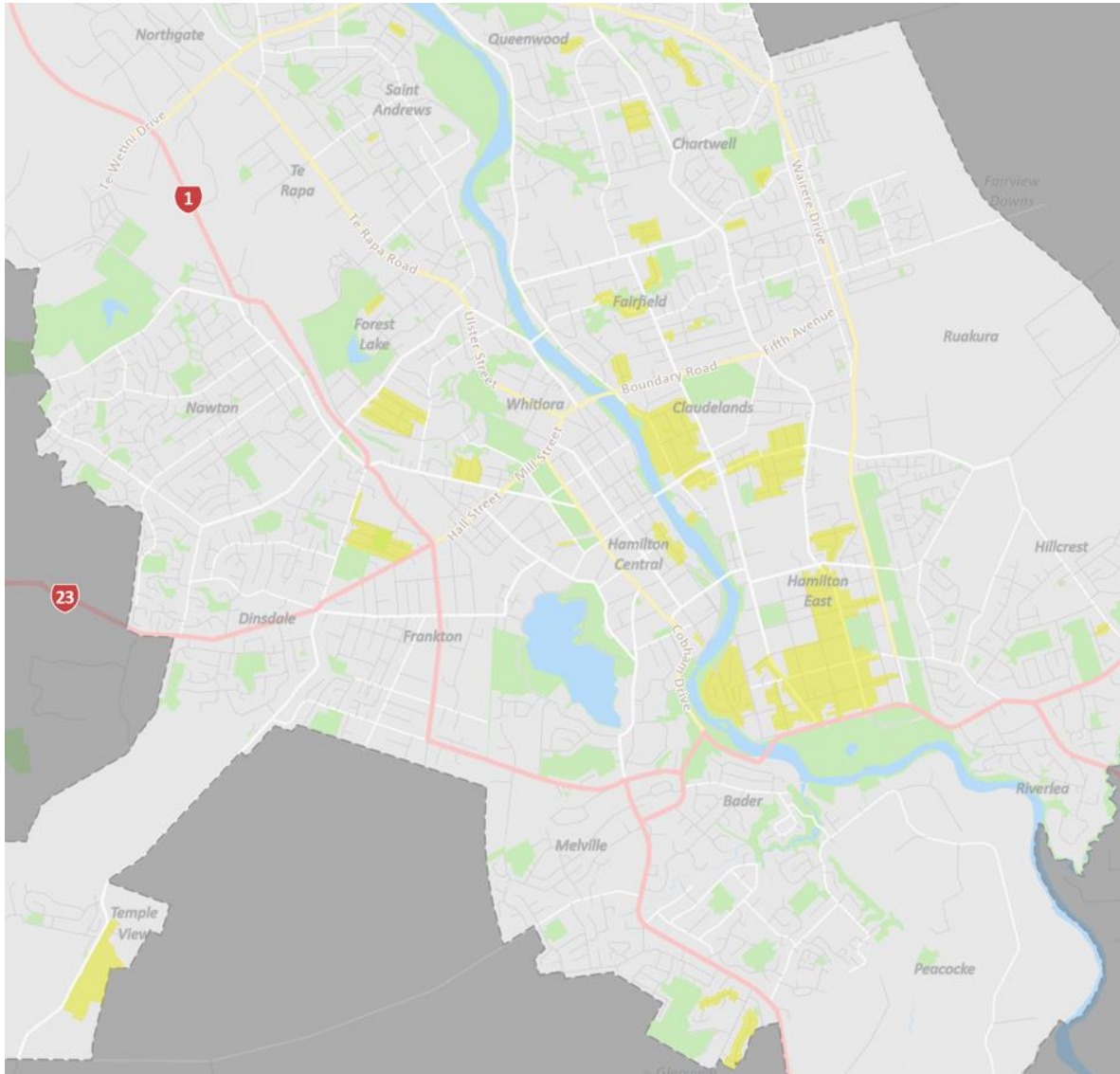


Figure 1: Proposed Historic Heritage Areas identified in yellow.

Under PC9, the underlying residential zoning does not change. The policy framework for HHA's is introduced through a planning overlay, with associated specific provisions (objectives and policies, rules and standards and assessment criteria) to control the use and development of land.

### 3.5 Significant Natural Areas

This section provides an overview of PC9 in relation to the SNA topic.

#### *Review of Significant Natural Areas*

As described above, there are significant gaps recognised in the operative District Plan's identification of SNAs. The original SNA dataset dating back to 2010 comprised 75 sites covering an area of 163.8 hectares, which equated to 1.5% of Hamilton City. However, the dataset was assessed

using an older version of the Waikato Regional Policy Statement (WRPS) significance determination criteria and focused mainly on floristic characteristics of the sites – not their habitat values for indigenous fauna.

To go towards meeting Council's obligations under section 6(c) of the RMA and give effect to the operative WRPS, an updated mapping exercise was carried out to identify areas of significant indigenous vegetation and significant habitats of indigenous fauna citywide (excluding those located within the Peacocke Structure Plan area which have been identified through PC5). This exercise applied the operative "*Criteria for determining significance of indigenous biodiversity*" in Appendix 5 to the WRPS.

#### *'Floristic SNA' and 'Corridor/indigenous fauna habitat SNA'*

The updated SNAs were categorised into two types:

- **'Floristic SNA' (fSNA):** Distinct areas of wetland or terrestrial vegetation communities dominated by naturally occurring indigenous plant communities or where naturally occurring indigenous vegetation define the primary aspects of the natural area which makes it significant in terms of section 6(c) of the RMA;
- **'Corridor/indigenous fauna habitat SNA' (cSNA):** Areas that are able to be delineated by topographical or vegetation features (such as gully systems, which can be dominated by exotic vegetation or restoration planting), which:
  - Provides significant fauna habitats (including stepping stone or corridor habitats), including regularly used habitats by nationally At Risk or Threatened indigenous fauna species; or
  - Provides ecological buffering to a regionally or nationally important SNA.

Further information on the methodology and mapping process can be found in the Section 32 Report (Appendix 12 to that report). PC9 seeks to include the updated SNAs in the planning maps and Appendix 9, Schedule 9C. Overall, the total area of SNA identified within PC9 is 695.47ha, which includes 137ha of the Waikato River, compared to 166ha of SNA in the operative District Plan. This is an increase in SNA coverage of 529.47ha or 392.47ha of new terrestrial vegetation and habitat. Most new SNAs are on private land.

The District Plan provisions relating to SNAs prior to PC9 were reviewed in association with the mapping changes to consider if they remained appropriate, given the new locations and extents of SNAs. Key issues identified included:

- The strong avoidance policies that are too blunt and wide-ranging;
- The need for more support for restoration and enhancement projects to occur;
- The need for more flexibility for public infrastructure/network utilities with operational and functional requirements to locate in a SNA;
- The need for provisions to be fit for purpose to manage the new different classifications of fSNA and cSNA.

Appendix 12 to the Section 32 Report contains the background methodology and assessment reports and consists of several reports. These reports are:

- 4Sight Consulting, titled 'Significant Natural Areas of Hamilton City District: Terrestrial and Wetland Ecosystems', dated June 2022.
- 4Sight Consulting, titled 'Hamilton City District Plan Significant Natural Area Review – Issues and Options', dated May 2022.
- Hamilton City Council, City Waters Memorandum, Plan Change 9: Three Waters Supporting Context for Infrastructure Provisions within proposed Significant Natural Areas, dated 21 June 2022.

It was concluded that changes to the District Plan provisions were required to address these issues, the details of which are described in section 4 of this report.

### 3.6 Notable Trees

This section provides an overview of PC9 in relation to the notable trees topic.

#### *Review of Notable Trees*

As identified earlier, there are significant gaps recognised in the operative District Plan's identification of notable trees. To enable Council to meet the obligations under section 7 of the RMA (section 7(c) and (f)), reassessment of the existing scheduled trees and identification of additional notable trees using the STEM methodology was carried out. The mapping and schedules were updated to indicate the locations of notable trees including their protected root zone.

The existing assessment criteria used for identification of significant trees is being replaced with the STEM method (Standard Tree Evaluation Method) to ensure best practice and commonly used criteria are employed. Therefore, all existing scheduled trees needed to be reassessed and given a STEM score to identify what trees that presently are scheduled still remain or should be removed from the District Plan. Further information on the tree assessment methodology and recommended STEM scoring thresholds can be found in the Section 32 Report (Appendix 11 to that report).

PC9 included the updated notable trees in the planning maps and Appendix 9, Schedule 9D. Overall, 1051 trees were identified including potential trees within private property which were not included in PC9 and would need to be considered and scheduled in a future plan change. Specifically, approximately 500 notable trees on public land are proposed and listed under the Appendix 9, Schedule 9D of PC9 in the District Plan and mapped on the PC9 map.

The operative District Plan provisions relating to notable trees were also reviewed. PC9 proposes amendments of policies relating to notable trees to better align the terms used with the arboriculture industry. The proposed amendments seek to clarify the rules relating to pruning and maintenance and works within the Protected Root Zone are made to ensure the objectives are achieved. Proposed amendments to assessment criteria D (Natural Character and Open Space) are also proposed as part of enhancing the wider framework.

A copy of the background report and notable tree assessments undertaken are included in Appendix 11 to the Section 32 Report and titled 'Memorandum: Hamilton City Council Tree and STEM Methodology', prepared by Arborlab Limited and dated June 2022.

## **4.0 Proposed Plan Change 9 Provisions**

### 4.1 Overview

PC9 proposes amendments to various District Plan chapters and appendices. These are shown in full within Appendix 3 to the Section 32 Report (<https://hamilton.govt.nz/property-rates-and-building/district-plan/plan-changes/plan-change-9/>). Also within Appendix 2 to the Section 32 Report is a comprehensive table of the various provision amendments within the chapters and appendices of the District Plan (starting on page 63 of that appendix).

A summary table is shown below which displays that the primary proposed amendments are within Chapter 19 Historic Heritage, Chapter 20 Natural Environments, the associated Appendix 8 Historic Heritage, Appendix 9 Natural Environments and the Planning Maps (features maps).

District Plan Volume	District Plan Chapters with Amendments Proposed by Proposed Plan Change 9	Provisions with Amendments Proposed by Plan Change 9
1	Chapter 19 Historic Heritage	19.1 Purpose – Historic Heritage Areas
		19.2.4 and 19.2.5 Objectives and Policies – Historic Heritage Areas
		19.3.2 Rules – Activity Status Table – Historic Heritage Areas
		19.4.3 Rules – Specific Standards – Historic Heritage Areas – Fences and Walls
		19.6 Restricted Discretionary Activities: Matters of Discretion and Assessment Criteria
1	Chapter 20 Natural Environments	20.1 b. – f. Purpose
		20.2.1 and 20.2.2 Objectives and Policies – SNA
		20.3 a. – r. Rules – Activity Status Table – SNA
		20.5.1 Rules – Specific Standards – Pruning and Maintenance in a SNA
		20.5.5 Rules – Specific Standards – Planting of Exotic Vegetation in a SNA
		20.5.6 Rules – Specific Standards – Pruning, maintenance or removal of indigenous or exotic vegetation or trees associated with restoration in a cSNA
		20.5.7 Rules – Specific Standards – The operation, maintenance, or upgrading of, or access to, existing infrastructure and public walkways and cycleways
		20.6 i. & ii. – Restricted Discretionary Activities: Matters of Discretion and Assessment Criteria
1	Chapter 25 City-Wide	25.2.3 j. – k. Rules – Activity Status Table – Earthworks and vegetation removal in/near SNA
		25.2.4.3 Rules – General Standards – Earthworks and vegetation removal in/near SNA
		25.6 Lighting and Glare: 25.6.1 Purpose
		25.6.2 Objectives and Policies – SNA
2	Appendix 1 District Plan Administration	1.1 Definition and Terms
		1.2 Information Requirements
		1.3.3 Restricted Discretionary, Discretionary and Non-Complying Assessment Criteria
2	Appendix 8 Historic Heritage	8-3 Assessment of Historic Heritage Areas
2	Appendix 9 Natural Environments	Schedule 9C: Significant Natural Areas
		Schedule 9D: Notable Trees
2	Planning Maps	Features Maps

#### 4.2 Historic Heritage Areas

Primarily, the proposed HHA provisions apply to Chapters 7 and 19, the District Plan appendices and the Planning Maps. The table below identifies the range of the proposed Plan Change 9 provisions that are directly related to the HHA topic.



District Plan Volume	Proposed Plan Change 9 Chapters	Proposed Plan Change 9 Sections
1	Chapter 7 Central City Zone	7.1 Purpose
		7.1.1 Precinct 1 – Downtown Precinct
		7.2.6 Objectives and Policies – Downtown Precinct
1	Chapter 19 Historic Heritage	19.1 Purpose – Historic Heritage Areas
		19.2.4 and 19.2.5 Objectives and Policies – Historic Heritage Areas
		19.3.2 Rules – Activity Status Table – Historic Heritage Areas
		19.4.3 Rules – Specific Standards – Historic Heritage Areas – Fences and Walls
		19.6 Restricted Discretionary Activities: Matters of Discretion and Assessment Criteria
2	Appendix 1 District Plan Administration	1.1 Definition and Terms
		1.2 Information Requirements
		1.3.3 Restricted Discretionary, Discretionary and Non-Complying Assessment Criteria
		E - Heritage Values and Special Character
2	Appendix 8 Historic Heritage	8-3 Assessment of Historic Heritage Areas
		Schedule 8D: Historic Heritage Areas

*Note: the above is not meant as a definitive list related to the topic, but as an overview only.*

The key changes proposed to the operative District Plan in relation to HHAs cover the following:

- In Chapter 19, new provisions introduce the purpose of HHAs is to ‘protect, maintain and enhance the respective heritage attributes’ of the identified areas. This includes a list the physical and visual attributes used to identify HHAs and supporting analysis on the purpose.
- Additions are made to 19.2 of the operative District Plan which has existing objectives and policies that apply to all ‘historic heritage’. Of relevance to HHAs, protection from adverse effects of ‘inappropriate’ subdivision, use and development is specified. Policy 19.2.b has been added to which emphasize historic heritage resources and values should be recorded and recognised. Specific policies are introduced to manage signage within HHAs.
- New objectives and policies are added specifically for HHAs. Two objectives are added (19.2.4 and 19.2.5) which seek to ensure heritage values are identified and protected. New policies then outline more specific measures to achieve this such as ensuring design of new or relocated buildings is compatible with heritage values with specific reference to the particular design elements (i.e. materials, onsite placement), effects of demolition or removal of buildings is managed and a Heritage Impact Assessment is provided to support consent applications.
- Chapter 19 introduces new rules for HHAs which required Restricted Discretionary (RD) consents for alterations and additions, new buildings, relocated buildings, demolition of detached accessory buildings which all apply to front, corner and through sites. The RD status is also applied to demolition of curtilage walls and fencing that does not meet the permitted standard. Where demolition or relocation of dwellings on front, corner or through sites are proposed at sites within HHAs, a Discretionary activity consent is now required.
- The matters of discretion for consents triggered by the HHA provisions reference is made to the matters added to Appendix 1.3, E – Heritage Values and Special Character.
- Updates have been made to Appendix 1.1 Definitions and Terms include new terms relevant to HHAs such as, ‘Adaptive Re-Use’, ‘Historic Heritage Area’, ‘Maintenance and Repair of Structures’, ‘Reconstruction’, ‘Setting’ and ‘Surroundings’.

- Updates are made to Appendix 1.2 Information Requirements and Appendix 1.3 Assessment Criteria which outline the specific information required when resource consent is sought for activities within an HHA. Notably the information requirements include the preparation of a Heritage Impact Assessment which must demonstrate that developments will not result in significant adverse effects to the representative and consistency criteria. The scope of the Heritage Impact Assessment should be commensurate with the scale of the proposed development, to ensure that an undue burden is not placed on home owners proposing only relatively minor works.
- Appendix 8 – Historic Heritage, is also updated to include a schedule of all HHAs which provides a location and description of the areas. These areas are then displayed on the Planning Maps.
- In underlying zoning chapters, exclusions relating to activities undertaken in these zones that are also within Historic Heritage Areas have been added which refer back to the Chapter 19 provisions. For example, in Chapter 5 (5.3 Rules – Activity Status Table) alterations and additions within Special Residential zones, Special Heritage zones and Special Natural zones are permitted except where they are also covered by the HHA overlay which then requires compliance with HHA provisions in Chapter 19. In the General Residential, Residential Intensification and Large Lot Residential Zones, activities involving additions, alteration, demolition, relocated or new buildings require reference back to the Chapter 19 provisions where properties in these zones are also covered by the HHA overlay.

#### 4.3 Significant Natural Areas

The sections of the operative District Plan affected by PC9 in relation to SNAs are as follows:

District Plan Volume	Proposed Plan Change 9 Chapters	Proposed Plan Change 9 Sections
1	Chapter 20 Natural Environments	20.1 b. – f. Purpose
		20.2.1 and 20.2.2 Objectives and Policies – SNA
		20.3 a. – r. Rules – Activity Status Table – SNA
		20.5.1 Rules – Specific Standards – Pruning and Maintenance in a SNA
		20.5.5 Rules – Specific Standards – Planting of Exotic Vegetation in a SNA
		20.5.6 Rules – Specific Standards – Pruning, maintenance or removal of indigenous or exotic vegetation or trees associated with restoration in a cSNA
		20.5.7 Rules – Specific Standards – The operation, maintenance, or upgrading of, or access to, existing infrastructure and public walkways and cycleways
		20.6 i. & ii. – Restricted Discretionary Activities: Matters of Discretion and Assessment Criteria
1	Chapter 25.2 Earthworks and Vegetation Removal	25.2.3 j. – k. Rules – Activity Status Table – Earthworks and vegetation removal in/near SNA 25.2.4.3 Rules – General Standards – Earthworks and vegetation removal in/near SNA
1	Chapter 25.6 Lighting and Glare	25.6.1 Purpose
		25.6.2 Objectives and Policies – SNA



2	Appendix 1 District Plan Administration	1.1 Definitions and Terms
		1.3.3 Restricted Discretionary, Discretionary and Non-Complying Assessment Criteria D3 – Activities Affecting Notable Trees or a Significant Natural Area
2	Appendix 9 Natural Environments	Schedule 9C: Significant Natural Areas

The proposed SNA provisions in Chapters 20 and 25 apply city-wide, including to the Peacocke Structure Plan area. The proposed changes to the mapped extent of SNAs have excluded the Peacocke Structure Plan area as this is being addressed under Plan Change 5 – Peacocke Structure Plan.

The key changes proposed to the operative District Plan SNA provisions are:

- Revised policies in Chapter 20 relating to SNA management to change the focus from an absolute ‘avoidance’ approach to an effects management approach that focuses on avoiding adverse effects on key ecological values and functions (loss of ecosystem function, fragmentation) to protect SNAs;
- Revised policies also recognise activities that are beneficial for SNAs and/or have a functional or operational need to exist in a SNA, and provide greater support to enable restoration activities;
- Amended rules within Rule 20.3 and 20.5 provide permitted activity pathways for a specific set of activities that have economic, social, environmental and cultural benefits (specifically restoration and enhancement works, maintenance of infrastructure, public walkways and cycleways, customary activities) where permitted thresholds are met;
- Amended rules within Rule 20.3 provide consenting pathways for activities that have a functional or operational need to be in SNA or may provide wider benefits while protecting SNAs (e.g. walkways to connect public to the Waikato River);
- A slightly different policy and rule framework that differentiates between floristic SNA (fSNA) and corridor SNA (cSNA) is applied, to reflect that their different ecological functions and values warrant different approaches to managing impacts on the values of the SNA in certain circumstances;
- Introduction of new rules in Chapter 25.2 which manage earthworks in dripline of a tree where trunk is in SNA and for the pruning of canopy of tree overhanging the boundary of a SNA;
- Amendments to Policy 25.6.2.1a to include consideration of light spill and glare having an impact on indigenous fauna in a SNA;
- Updates to Appendix 1.1 Definitions and Terms to align with above changes, including definitions of ‘*biodiversity offset*’, ‘*biodiversity compensation*’, ‘*restoration*’ in relation to SNA, ‘*pest control*’, ‘*vegetation trimming and maintenance*’ and ‘*vegetation removal*’;
- Addition of four new assessment criteria for SNA to Appendix 1.3.3 D to ensure new concepts in the SNA policies (e.g. biodiversity offsetting or compensation) are considered, and to reflect the new pathways for infrastructure and public walkways/cycleways that are provided for in SNA in Chapter 20; and
- Updates to Appendix 9 – Schedule 9C with revised list of SNA, including reference to the values which make each SNA significant and the classification of SNA.

These changes are also summarised in Appendix 2 to the Section 32 Report and detailed in Appendix 12 to the Section 32 Report.

#### 4.4 Notable Trees

The provisions proposed under PC9 in association with notable trees are as follows:

District Plan Volume	Proposed Plan Change 9 Chapters	Proposed Plan Change 9 Sections
1	Chapter 20 Natural Environments	20.1 g. – j. Purpose – Notable Trees
		20.2.3 Objective and Policies – Notable Trees
		20.3 s. – x. Rules - Activity Status Table – Notable Trees
		20.5.2 – Rules – Specific Standards - Pruning and Maintenance of Notable Trees
		20.5.3 – Rules – Specific Standards - Activities in the Protected Root Zone of a Notable Tree
		20.5.4 - Rules – Specific Standards – Emergency Works to, or Removal of, an Indigenous Tree in a Significant Natural Area or a Notable Tree
		20.6 iii. & iv. – Restricted Discretionary Activities: Matters of Discretion and Assessment Criteria
2	Appendix 1 District Plan Administration	1.1 Definition and Terms
		1.3.3 Restricted Discretionary, Discretionary and Non-Complying Assessment Criteria
		D3 – Activities Affecting Notable Trees or a Significant Natural Area
		D11, D12 and D13 – Non-emergency Works to, Removal or Transplanting of, a Notable Tree
2	Appendix 9 Natural Environments	1.4 Design Guides
		9-1 Significant Tree Assessment Valuation Method and Criteria
		9-1.1 STEM Method of Evaluation
		Schedule 9D: Notable Trees

The key changes proposed to the operative District Plan notable trees provisions are:

- Revised policies in Chapter 20 relating to notable trees to give effect to existing objective 20.2.3 and strengthens rules to ensure the health and wellbeing of the tree(s) is protected;
- The amended rules within 20.3 provide greater clarification on the types of works to be permitted with or without a resource consent;
- New rules (20.5.2 and 20.5.3) relating to pruning and maintenance of notable trees and activities in the Protected Root Zone of a notable tree;
- Updates to Appendix 1.1 Definitions and Terms to align with above changes, including the:
  - Deletion of the existing definition of the Root Protection Zone and the introduction of a new definition for a Protected Root Zone;
  - Amendment of 'Protected tree' to reflect the change in terminology used and;
  - Amendment of 'Pruning, trimming and maintenance of a notable tree' to delete reference to Significant Natural Areas and reflect the change in terminology used.;

- Amendment of assessment criteria for notable trees (D3) in Appendix 1.3.3 D Natural Character and Open Space to achieve proposed Objectives 20.2.3;
- Deletion of RNZIH Standard Method of Evaluation and replacement with the STEM method of Evaluation to Appendix 9 for the identification notable trees;
- Updates to Appendix 9 – Schedule 9D to provide re-assessment of existing listed trees with STEM scores. Addition of new Notable Trees within road berms or reserves, and the inclusion of the Root Protection Zone measurement for all notable trees.

These changes are also summarised in Appendix 2 to the Section 32 Report and detailed in Appendix 11 to the Section 32 Evaluation Report.

## 5.0 Analysis of Submissions Received

### 5.1 Overview

During the submission period 468 submissions were received, and in excess of 2,000 submission points. During (and shortly after) the further submission period that ended on 18 November 2022 338 further submissions were received.

Of the 468 submissions received 325 relate to the Hearing Session 1 topics, 55 relate to the Session 2 hearing topics, and 88 across both hearing sessions.

The spread of submission points across the five PC9 topics is as follows:

Plan Change 9 Topic	No. of Submission Points
Historic Heritage Areas	710
Significant Natural Areas	472
Notable Trees	264
General (broad points that cover both hearing 1 and 2 topics)	150
Archaeological Sites (hearing 2 topic)	151
Built Heritage (hearing 2 topic)	278
<b>Total Submission Points</b>	<b>2025</b>

The key submitter themes for the Hearing Session 1 topics are discussed in the following section.

### 5.2 Key Submitter Themes

The following emerging themes and related issues have been identified for the Hearing Session 1 topics of HHAs, SNAs and notable trees:

#### *Historic Heritage Areas – Key Themes*

- **Philosophical positions around whether HHAs should be pursued to protect historic heritage**

This theme is challenging whether the concept of identifying HHAs is an appropriate response to section 6(f) of the RMA as a 'matter of national importance'. The relief sought from submitters challenging the broad rationale for HHAs seek outright deletion of one or all of the identified HHAs

within PC9 and removal of HHA related district plan provisions. This equates to a return to the operative District Plan Special Character Zone provisions within Chapter 5.

Related to the above is the philosophical debate regarding the difference between 'historic heritage' (section 6(f) RMA) and 'character' (section 7 RMA). Some submitters are arguing that HHAs are protection of character and not historic heritage and therefore not responding to a 'matter of national importance'. This distinction would also have implications for whether HHAs should be considered a 'qualifying matter' for the purposes of Plan Change 12 - Enabling Housing Supply and the MDRS.

➤ **Whether the approach has been applied well enough spatially**

This theme is a collective of arguments regarding the methodology applied for the identification of what is an HHA; disagreement with the assessment method and scoring of what is and is not an HHA; and whether the 'spread' of HHAs across the city and across the decades of city development that the HHA topic is seeking to respond to are appropriate.

➤ **Are the mapped HHA spatial extents right or not?**

This theme is then regarding the mapping of the extents of HHAs and whether the boundaries are logical and defensible; whether the mapping has been undertaken with suitable accuracy; and whether the HHAs identified are too large or too small to adequately represent development within the city through the development decades / eras identified.

➤ **Are the plan provisions that apply within an HHA too restrictive or too permissive?**

This theme is about the district plan provisions proposed to apply within the identified HHA's. This theme involves a wide variety of positions and perspectives. This includes the extent to which housing intensification should be allowed within the HHAs and whether the HHA proposals 'give effect' to the NPSUD and the WRPS or fail to do so. The theme also includes some perceived conflicts between HHA provisions and the underlying district plan zoning that applies. Also, whether the HHA provisions should be individualised to a greater extent from one HHA to another, and the perceived inflexibility of the HHA provisions for specific activities.

➤ **Will the HHA provisions achieve the intended outcomes or result in unintended consequences?**

This theme collectively covers HHA submission points more concerned with broad outcomes, including protection of amenity, the impact on community wellbeing, impacts on property values, development potential and cost, additional costs as a result of the HHA approach, and the impacts on landowners.

*Significant Natural Areas - Key Themes*

➤ **Philosophical Positions on the Identification and Protection of SNAs and Impact on Landowners**

This theme covers submission points generally supportive of the intent of PC9 to identify and protect SNAs, without seeking wholesale changes to the SNA-related components of PC9. Some submitters expressed opposition in principle to SNAs being identified on private land, seeing the imposition of SNA rules on private land as an unacceptable infringement of private property rights. This theme includes points around non-district plan methods to protect SNAs, including instituting a system to enable some specific parties to manage SNAs and undertake works without resource consent.

Submission points regarding Council's perceived poor track record at maintaining public SNAs is also part of this theme.

➤ **Spatial Extent of SNAs**

This theme covers submission points that focus on the practical identification of SNAs and the accuracy of mapping undertaken in preparing PC9. This includes submission points seeking removal of individual SNAs entirely, the inclusion of additional SNAs, and to points regarding the decrease or increase of the SNA extent mapped within PC9.

➤ **Plan Provisions**

This theme covers the collective of submission points in relation to proposed SNA protection provisions for allowing construction of buildings and structures, maintenance and vegetation removal activities, and infrastructure activities.

*Notable Trees - Key Themes*

➤ **Philosophical Positions on the Identification and Protection of Notable Trees**

This theme covers the range of submission points around the merits or otherwise of identifying and protecting notable trees, the focus on public land for the notable tree identification preparatory work, and issues around the landowner impacts of the identification of a notable tree near property boundaries where the tree is on public land but the root protection zone extends to private land.

➤ **Method of Evaluation**

This theme covers submission points that focus on the STEM evaluation technique and the difference in outcomes from the previous evaluation method employed (within the District Plan prior to PC9). Also the threshold and definition for what is a 'notable tree' and arguments around the adopted STEM evaluation score of 130 points.

➤ **Seek to Schedule New Trees / Remove Notable Trees**

This theme covers submission points that focus on the practical identification of notable trees and the accuracy of mapping, particularly root protection zones, undertaken in preparing PC9. This includes submission points seeking removal of individual notable trees, the inclusion of additional notable trees, and to points regarding the changes to the mapping undertaken for PC9.

➤ **Notable tree provisions and definitions**

This theme covers the collective of submission points in relation to proposed notable tree protection provisions. This theme relates to the root protection zone provisions and the works that can be undertaken within this zone as a permitted activity. Also provisions regarding the extent and type of trimming and tree maintenance of a notable tree that can be undertaken as a permitted activity.

### 5.3 General Submissions

There approximately 150 submission points that have been categorised as 'general' submission points, many of which traverse both hearing 1 and hearing 2 topics, including the entirety of PC9. Broadly these 'general' submission points can be categorised as follows:

- Supports PC9 in its entirety
- Opposes PC9 in its entirety
- Have been identified as being based on 'out of scope' matters

- Have not clearly sought any relief that can be responded to in recommendations
- Have clear relief sought but the relief lies outside of what can be responded to within the context of a district plan
- Have raised various process or consultation deficient matters

In response to the above broad classifications of the 'general' submission points, these are discussed below:

#### *Supports PC9 in its entirety*

These are submission points that support the PC9 provisions in their entirety (or in some cases the entirety of the PC9 provisions relating to a Hearing Session 1 topic only). The relief sought is the approval of PC9 in its entirety (or the PC9 topic provisions in their entirety). These submission points will be accepted in part insofar as in response to other submission points, for all PC9 topics there are amendments to plan provisions, mapping extents and the schedules.

#### *Opposes PC9 in its entirety*

These are submission points that oppose the PC9 provisions in their entirety (or in some cases the entirety of PC9 provisions relating to a hearing Session 1 topic only). The relief sought is the decline of PC9 in its entirety (or of the PC9 topic provisions in their entirety). These submission points will be rejected as none of the PC9 topics are proposed to be withdrawn in their entirety, nor the withdrawal of PC9 in its entirety.

#### *Have been identified as being based on 'out of scope' matters; or have clear relief sought but the relief lies outside of what can be responded to within the context of a district plan*

These submission points cover a variety of subject matter, all of which will be evaluated individually in detail but in general appear to be either outside of the scope of PC9, or the relief sought cannot be responded to within the confines of a district plan. Examples are the seeking of financial support for landowners where an SNA or heritage item has been identified on a property, seeking creation of a fees-free resource consenting regime for notable trees and heritage items, seeking further engagement with Council, various transport or housing intensification matters, mana whenua representation issues, site-specific matters outside of the assessment undertaken for PC9, water conservation, matters relating to public reserve land administered by Council, introduction of HHAs in commercial areas (Frankton and Claudelands), and seeking some other relief that is outside of the functions of a territorial authority or beyond what can be provided for within a district plan.

#### *Have not clearly sought any relief that can be responded to in recommendations*

These are submission points where no relief sought has been identified within the submission. These points are typically where a submitter has presented a broad argument as to the merits or otherwise of a provision or approach within PC9, but with no stated relief being sought in response. In some cases the relief sought is relief that can be responded to within Plan Change 12 - Enabling Housing Supply, but not within PC9. In some cases there are other submission points within the same submission where specific relief has been stated and the section 42A reporting planners for each topic will be responding to those other points.

#### *Have raised various process or consultation deficient matters*

As described in earlier sections of this report, the early preparatory work for PC9 commenced in response to a Council resolution in 2019, with at first a relatively narrow focus. The focus and contents of PC9 was then added to in response to subsequent Council resolutions to include the five topics that now comprise PC9. The preparatory work around identification of Sites and Areas of Significance to Maaori within the city (and associated mana whenua engagement) was also removed

from PC9 and is being progressed through another workstream, including through other non-RMA processes.

During the three and a half years of the gestation of PC9 there have been periods of community engagement undertaken through various means. Some of this engagement involved direct landowner discussions about the outcomes of background technical work undertaken relating to individual properties for one or more of the PC9 topics. There were also various phases of wider community consultation on the purpose and contents of PC9. This was followed by the notification of PC9 in July 2022 followed by the remainder of the statutory Schedule 1 RMA process summarising submissions and calling for further submissions.

Through all of the above time period and process, various matters have arisen as identified by landowners and stakeholders, and in some cases these have been articulated within submissions and further submissions received. Council staff and consultants have sought to respond to individual matters raised by parties during the process with provision of information, direct discussions and advice provided through the 'Friend of the Submitter' service. It is anticipated that this process will continue to and beyond the hearings.

The detail associated with the above will be reported on within the Planning Report to be prepared in April.

#### 5.4 Historic Heritage Areas Themes

The following section outlines more a specific analysis on the general themes identified in submissions relating to HHAs.

The following table provides an overview of the submissions received for each particular HHA, including the related key issues that were raised, both in support and in opposition.

HHA	Name	Support / Support in Part	Oppose	Key Issues Raised
1	Acacia Crescent			<ul style="list-style-type: none"> <li>Impact on private property rights</li> <li>Impact on future development potential</li> </ul>
2	Anglesea Street			<ul style="list-style-type: none"> <li>Impact on private property rights</li> <li>Impact of adjoining proposed high-density zone</li> </ul>
3	Ashbury Avenue			<ul style="list-style-type: none"> <li>Expand area of HHA</li> </ul>
4	Augusta Street, Casper Street and Roseberg Street			<ul style="list-style-type: none"> <li>Impact on future development potential</li> <li>Impact on property values</li> </ul>
5	Casey Avenue	No specific submission received regarding these HHA's.		
6	Cattanach Street			
7	Chamberlain Place			
8	Claudlands			<ul style="list-style-type: none"> <li>Improved clarity for District Plan users</li> <li>Expand area of HHA</li> <li>Potential cost impact for property owners</li> <li>Disagree with assessment</li> </ul>

HHA	Name	Support / Support in Part	Oppose	Key Issues Raised
9	Fairfield Road			<ul style="list-style-type: none"> <li>Area currently not cohesive or consistent</li> <li>Impact on property values</li> </ul>
10	Frankton Railway Village			<ul style="list-style-type: none"> <li>Improved alignment with Heritage NZ</li> <li>Area currently not cohesive or consistent</li> <li>Include certain identified trees</li> </ul>
11	Graham Street			<ul style="list-style-type: none"> <li>Expand area of HHA</li> </ul>
12	Hamilton East			<ul style="list-style-type: none"> <li>Expand area of HHA</li> <li>Impact on future development potential</li> <li>Consistency with direction of the NPS-UD</li> <li>Exclude rear sites</li> <li>Disagree with assessment</li> </ul>
13	Hayes Paddock			<ul style="list-style-type: none"> <li>Disagree with assessment</li> <li>Expand area of HHA</li> <li>Exclude certain properties</li> <li>Potential cost impact for property owners</li> <li>Change provisions related to areas behind existing dwellings</li> </ul>
14	Hooker Avenue	No specific submission received regarding these HHA's.		
15	Jamieson Crescent			
16	Jennifer Place			
17	Lamont, Freemont, Egmont and Claremont Street			<ul style="list-style-type: none"> <li>Exclude certain properties</li> <li>Area well located for intensification</li> <li>Potential cost impact for property owners</li> <li>Impact on amenity / privacy</li> </ul>
18	Marama Street			<ul style="list-style-type: none"> <li>Number of dwellings extensively modified and/or removed.</li> <li>Disagree with assessment</li> <li>Impact on future development potential</li> </ul>
19	Marire Avenue, Parr Street and Taniwha Street			<ul style="list-style-type: none"> <li>Expand area to include adjacent streets</li> <li>Disagree with assessment</li> <li>Considers area is well suited for intensification</li> </ul>
20	Matai Street, Hinaiu Street and Rata Street			<ul style="list-style-type: none"> <li>Provisions will protect existing character</li> <li>Expand area of HHA</li> <li>Impact on future development potential</li> </ul>



HHA	Name	Support / Support in Part	Oppose	Key Issues Raised
				<ul style="list-style-type: none"> <li>Consistency with direction of NPS-UD</li> </ul>
21	Myrtle Street and Te Aroha (West) Street			<ul style="list-style-type: none"> <li>Merge with adjacent proposed Claudelands HHA</li> <li>Exclude specific properties</li> </ul>
22	Oxford Street (East) and Marshall Street Railway Cottages			<ul style="list-style-type: none"> <li>Disagree with methodology and scoring applied</li> <li>Disagree with definition of 'railway cottages'</li> <li>Potential cost impact for property owners</li> <li>Impact on property values</li> <li>Area currently not cohesive or consistent</li> </ul>
23	Oxford Street (West)			<ul style="list-style-type: none"> <li>Existing homes need upgrading</li> <li>Impact on future development potential</li> </ul>
24	Riro Street			<ul style="list-style-type: none"> <li>Request flexibility regarding maintenance and improvements</li> <li>Area currently not cohesive or consistent</li> <li>Potential cost impact for property owners</li> <li>Impact on property values</li> <li>Exclude specific properties</li> </ul>
25	Sare Crescent			<ul style="list-style-type: none"> <li>Disagree with methodology and scoring applied</li> <li>Exclude specific properties</li> </ul>
26	Seifert Street			<ul style="list-style-type: none"> <li>Potential cost impact for property owners</li> </ul>
27	Springfield Crescent	No specific submission received regarding these HHA's.		
28	Sunnyhills Avenue			
29	Te Aroha Street			<ul style="list-style-type: none"> <li>Exclude properties along the rail corridor</li> <li>Area currently not cohesive or consistent</li> </ul>
30	Templeview			<ul style="list-style-type: none"> <li>Provisions will help ensure new buildings are compatible with heritage values</li> </ul>
31	Victoria Street			<ul style="list-style-type: none"> <li>Built environment plays important role in telling story of Hamilton</li> <li>Change classification of area to 'special character'</li> <li>Expand area of HHA</li> <li>Exclude certain properties</li> </ul>

HHA	Name	Support / Support in Part	Oppose	Key Issues Raised
32	Wilson Street and Pinfold Street			<ul style="list-style-type: none"> <li>Consistency with direction of NPS-UD</li> <li>Area is well suited for intensification</li> </ul>

Five overarching themes are identified with additional subthemes that identify more specific issues. Indicative recommendations are made in relation to these themes.

### **Philosophical positions around whether HHAs should be pursued to protect historic heritage**

*Proposed HHA's in PC9 are not a matter of national importance, as per section 6 (f) of the RMA*

Section 6 of the RMA requires local authorities to recognise and provide for the protection of historic heritage from inappropriate subdivision, use and development when managing the use, development and protection of natural and physical resources, as a matter of national importance (s6(f)).

While the majority of submissions support the protection of historic heritage as a matter of national importance, key concerns were raised whether the proposed HHA's meet the requirements of section 6 RMA to the extent that they should be accorded 'historic heritage' status being of 'national importance'. These submissions question the robustness of the assessment criteria and application of the assessment criteria used to identify HHAs.

#### *Consistency with related policy and legislation – Historic Heritage versus Character*

Many submissions identified that the terminology and definition used in relation to HHA's are not consistent with related policy and legislation, such as the RMA, the Heritage New Zealand Pouhere Taonga Act and the WRPS. Inconsistent use of terminology and definitions that are unclear, can create a disconnect between district plans and other heritage related legislation and policy documents. This potentially allows for an inconsistent application of the consenting, monitoring and enforcement processes and can result in confusion between council officers and the public.

Concerns were raised regarding the proposed definition of 'Historic Heritage Area'<sup>1</sup> as it does not align with the language and terminology used under the RMA or other policy documents; as well as that it is more commensurate with 'character value' than 'historic heritage value'. This leads to the question raised by many submissions that the use of an HHA overlay is not an appropriate mechanism to protect historic heritage as defined by the RMA.

On the other hand, 'special character' protects areas that have special values identified in district plans. Special character contributes to amenity value and decision makers under RMA, section 7(c) must "have particular regard to ... the maintenance and enhancement of amenity values". The operative District Plan currently utilises the Special Character Zones to protect, maintain and enhance the 'special' characteristics of these areas (Special Residential Zone, Special Heritage Zone, Special Natural Zone, Temple View Zone, Peacocke Character Zone, Rototuna North East Character Zone). These zones are proposed to be deleted from the District Plan as part of Plan Change 12.

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<sup>1</sup> Proposed definition - Historic Heritage Area: Means an identified area with historic heritage value which are representative of their development period, and are consistent in their physical and visual qualities, including street pattern, lot layout and density, natural environment, housing typologies and street frontage treatments.

Some submissions identified that there is a lack of clear distinction between areas of recognised historic heritage value and areas of special character.

The accuracy and confidence of identifying HHA's relies on the methodology and set of assessment criteria that were developed by the technical heritage expert.

Concerns were raised by several submissions that the methodology and assessment criteria are commensurate with character values and that these are not consistent with established guidance and practice for the identification and assessment of historic heritage, including the existing established Historic and Cultural Heritage assessment criteria under Section 10A of the WRPS and existing Heritage Assessment criteria under Appendix 1.3 of the operative District Plan.

#### Indicative Recommendation

The identification of HHAs and development of the PC9 provisions to include them within the District Plan was formulated based on research and survey conducted by Council's subject matter expert, Richard Knott. Following the close of submissions and further submissions, Council engaged two additional and independent experts (Robin Miller of Origin Consultants and Dr. Kai Gu from the University of Auckland) to provide peer review of the HHAs identified, including the assessment criteria and methodology used to identify the HHAs.

I rely on the advice of these experts and note that the final outcome and recommendation from the assessment will be included as part of the documents for the hearing in due course.

With regard to the definition of the phrase 'Historic Heritage Area' I agree with submissions that the definition should align with the language and terminology of the RMA and other policy documents where there is no clear rationale for it to differ. Furthermore, historic heritage is a matter of national importance under section 6 RMA therefore alignment with the terminology in the RMA and higher order documents such as the WRPS would make it more robust in the District Plan.

In relation to the concerns raised about the use of historic heritage over special character, I again rely on the advice of the experts and note that the final outcome and recommendation from the assessment will be included as part of the documents for the hearing in due course.

#### **Whether the approach has been applied well enough spatially. Are the mapped HHA spatial extents right or not?**

Many submissions questioned the validity of the assessment criteria used to identify HHA's; the accuracy and consistency of the application of criteria across each HHA; and the historic significance of some or all of the historic heritage themes used as the basis for the HHAs.

Key concerns from submissions were focused on the development of each historic heritage theme and their significance to warrant specific protection; and consistency of the application of the criteria including the subsequent evaluation undertaken and therefore the accuracy of the eventual mapping. This also included the determination of the spatial extents and boundaries for each HHA. Some submissions requested the removal of individual properties, whilst some requested the removal of some properties within identified HHAs and some submissions requested the removal of HHAs in their entirety from PC9.

Submissions highlighted the proposed HHAs as needing further assessment to remove some or all of the extent of the overlay for various reasons including disagreement with the assessment methodology or heritage themes:

- Acacia Crescent (HHA 1)

- Anglesea Street (HHA 2)
- Augusta Street, Casper Street and Roseberg Street (HHA 4)
- Claudelands (HHA 8)
- Hamilton East (HHA 12)
- Lamont, Freemont, Egmont and Claremont Street (HHA 17)
- Marama Street (HHA 18)
- Myrtle Street and Te Aroha (West) Street (HHA 21)
- Oxford Street (East) and Marshall Street Railway (HHA 22)
- Sare Crescent (HHA 25)
- Victoria Street (HHA 31)

In parallel to the above, other submissions in support of the introduction of HHAs have identified areas of the city that should be included as new HHAs or additional to existing HHAs as they are perceived to meet the heritage themes assessment criteria or have other historic heritage value not captured by the themes.

Entirely new areas included the following:

- Fairview Downs
- Harrowfield
- Marnane Terrace
- Queens Avenue
- Frankton Commercial area
- Claudelands Commercial area

#### Indicative Recommendation

Additional work is being undertaken by the heritage expert, supported by the peer reviewers to enhance the methodology applied. This work involves further fieldwork and historical research, involves a review of the mapped extent of the HHAs, and relies upon the same methodology and assessment criteria to evaluate each of these areas, with additional peer review analysis provided by the two independent experts to enhance the approach. The final outcome and recommendation from the re-assessment of HHAs where submissions outlined the partial or full removal of HHAs were not available at the time of writing this report and will be included as part of the documents for the hearing in due course.

In relation to submissions that identified new HHAs or the extension of existing HHAs, the additional fieldwork conducted includes these areas and applies scoring for them in accordance with the methodology set out in the earlier Richard Knott report. In parallel, Council sent out letters to property owners / occupiers potentially impacted by new HHAs or extensions to existing HHAs. As typically the submissions did not include maps to specifically identify the potential HHA boundary changes, Council took a conservative approach and distributed letters out widely to potentially impacted property owners / occupiers.

The further field work, assessments and recommended will be included as part of the documents for the hearing in due course. Mr Knott has indicated initial changes may include the following:

- Deletion of two HHAs
- Expansion of existing HHAs
- Consideration of new HHAs

The outcomes of the additional fieldwork and evaluation will be made available within the coming week (but not available at the time of writing this report). I will be relying on the outcomes of this additional work in formulating recommendations in response to these submission points.

### **Are the plan provisions that apply within an HHA too restrictive or too permissive?**

#### *Giving Effect to the NPSUD and WRPS*

Some submissions identified that the proposed PC9 HHA's do not give effect to the NPSUD and the WRPS. Changes to the District Plan must give effect to both the NPSUD and the WRPS.

Submissions questioned whether the proposed HHA's meet the existing established Historic and Cultural Heritage assessment criteria under Section 10A (or part 5 APP7) of the WRPS, in particular that the identification used a different methodology and set of assessment criteria.

Submissions also raise concerns regarding whether HHA's meet the requirements to be appropriately recognised as "qualifying matters" under the NPSUD and that they effectively limit development capacity.

#### Indicative Recommendation

As detailed elsewhere in this report, the expert heritage specialists have prepared analysis on the historic heritage of these areas and why they qualify for protection as an appropriate response to Part 2 of the RMA and in particular section 6(f). I rely on the evidence of the heritage specialists in determining the historic heritage of areas that warrant protection and of confirming the adequacy of their methodology in making these determinations.

As above, additional work is being undertaken to review the HHAs identified based on the peer review findings and further field work. The final outcome and recommendation from the assessment will be included as part of the documents for the hearing in due course.

#### *Activities on Sites Adjoining HHAs*

PC9 does not introduce controls for intensification and infill developments within the HHAs as the purpose of PC9 is heritage protection. Concerns were raised around the adverse impacts of future intensification for sites that are within and that are adjacent to the HHA's, in particular regarding the following aspects:

- Loss of privacy and accesses to sunlight and daylight
- Change of a neighbourhood's amenity
- Noise and solid waste
- Traffic and parking

#### Indicative Recommendation

The provisions of Chapter 19 HHAs are intended to be supplementary to controls contained in the underlying zoning of each property and override where they conflict. The rules applying to HHAs are therefore specific to particular activities which could have an impact on the historic heritage of the sites such as, new dwellings and buildings, additions and alterations, demolition or relocation of existing dwellings and buildings and fencing height.

HHAs are intended to protect the historic heritage of sites where activities are undertaken within them (such as those listed above). However, activities undertaken on adjoining sites not covered by an HHA overlay can also have the potential to compromise the heritage values the overlay is seeking to protect. I consider there is merit in limiting to some extent, activities on sites adjoining HHAs that

are incompatible with the heritage values being protected. However, given the scope of PC9 in relation to the HHA provisions is to apply controls to areas identified within HHAs, the ability to apply further controls to adjoining sites is not possible. Management of adverse effects from activities occurring on adjoining sites is therefore dictated by the zoning and citywide rules that apply to those sites.

#### *Conflict Between Zoning Controls and Historic Heritage Area Controls*

Submissions raised the potential conflicts between the relevant zoning controls and the provisions under the HHA overlays. Key concerns raised in submissions relate to the potential conflicts and integration of provisions between the different chapters. For example, different activity tables and matters of discretion between the zoning chapters and the historic heritage area overlay chapter.

Submissions also identified the need to define the following terms in order to distinguish their meaning in relation to the HHAs as opposed to any other zone of the ODP:

- curtilage wall
- partial demolition
- alterations and additions
- relocated building

#### *Indicative Recommendation*

The potential conflicts between the relevant zoning controls and the provisions under the HHA overlays are being analysed with the prospect of some amendments to the HHA provisions to ensure the intended outcomes are achieved.

In relation to the further defining of commonly used terms in the proposed provisions, I agree that definition of the terms identified above should be included within PC9. Defining of these terms will provide clear instruction on the meaning applied to these terms and then how they are intended to relate to other HHA provisions to achieve the intended outcomes.

#### *More Specific Provisions for Individual HHAs*

In addition to the above, concerns were raised that the provisions are not explicit enough to provide clear guidance for individual HHAs to protect and enhance their specific character. The essence of this is around the merits of having a unified city-wide rule framework that applies to all HHA's to improve the efficiency and effectiveness of the district plan.

Concerns were raised that the unified approach may cause unintended District Plan outcomes, with the recommendation that the historic heritage values for each HHA should be more explicit to ensure greater clarity on the matters of discretion to be considered for resource consent applications.

#### *Indicative Recommendation*

The proposed HHA provisions are applied in the same manner to all areas identified irrespective of the heritage theme they relate to. In this regard, the provisions do not provide for different protection measures relative to the specific characteristics of each theme. The provisions require the same level of assessment for each heritage theme which is only differentiated by the scale and significance of the activity consent is sought for. Where consents are required, applications must be supported by a Heritage Impact Assessment for which the content is prescribed in Appendix 1.3. In addition, applications must assess the matters for discretion. Therefore, the individual characteristics of each site and heritage theme is able to be assessed through this process.

I would rely on the advice of the heritage expert on whether more specific provisions relative to each heritage theme would provide better protection or management of effects. The final outcome and recommendation from the assessment will be included as part of the documents for the hearing in due course.

#### *Theme: Inflexible Provisions for Specific Activities*

Concerns were raised that some of the provisions are too restrictive and do not provide sufficient flexibility for landowners. PC9 is concerned with the protection and restriction of certain activities within the HHA's. A range of activities with differing activity statuses are considered and proposed.

More specifically, submissions focused on having a less restrictive rule framework for the following activities:

- Development on a rear section
- Development to the rear of the existing dwelling
- Construction of fences and/or walls

Submissions suggested demolition, temporary activities (such as scaffolding) and some accessory buildings (such as garden sheds) should be permitted activities.

#### Indicative Recommendation

I rely on the advice of the heritage experts to make a recommendation on whether the any leniency of the proposed provisions would compromise the heritage values that they are seeking to protect.

I provide comments on the following specific matters:

Allowing uncontrolled demolition of dwellings or buildings which contribute to the heritage values that PC9 is seeking to protect would likely result in the loss or compromise of those values. Therefore, requiring a Discretionary or Restricted Discretionary resource consent for these activities would allow the values of the dwelling or building and adverse effects of demolition to be assessed before demolition is potentially consented.

Initially, the requirement for consent to erect scaffolding temporarily appears unnecessarily onerous and counterintuitive to encouraging permitted maintenance activities that could support the retention of heritage values.

#### **Will the HHA provisions achieve the intended outcomes or result in unintended consequences?**

##### *Protection of Amenity*

Submissions acknowledge that the identification of HHA's provides a more targeted approach to heritage as well as to infill and will therefore help ensure a range of neighbourhoods and housing choices. The protection afforded to properties within HHA's may also provide greater certainty on overall levels of amenity.

As one of the fastest growing cities in New Zealand, many of the HHAs that have been identified are likely experiencing growth or are recognised as areas likely to provide growth. While recognising heritage does not preclude growth and change (including through intensification), this may change the look and feel of the neighbourhood and may place pressures on the city's historic heritage.

#### Indicative Recommendation

Submissions are supportive of the inclusion of HHAs and will likely be accepted.

### *Impact on Community Wellbeing*

Submissions recognise the wider benefit that the recognition and retention of HHA's will have as the city changes over time, particularly in terms of the story of Hamilton's development and providing an important sense of place.

Effective historic heritage planning needs to incorporate social, economic, cultural and community values leading to a vision of what historic heritage could look like in the future. It should also focus on developing and implementing an effective strategy to achieve that vision.

### *Impacts on property values, development potential and cost*

Submissions highlighted that the identification of HHA's through PC9 and the restrictions on the subdivision, use and development of these areas, will have an impact on private property rights and the potential to affect the use of the land for intensification and infill development.

While resource consent pathways are provided for ongoing development, concerns are raised that the rule framework may constrain or preclude the ability to comprehensively plan for and enable the sustainable and efficient use of land. This in turn can have an effect on the value of property as the development potential is limited or restricted by the additional controls applied to HHAs.

### *Additional costs as a result of the approach to Historic Heritage Areas.*

The proposed planning provisions and rule framework, introduce the requirement for resource consents for certain activities where they were not previously required under the operative District Plan, which will result in additional time and costs. Particular concerns were raised regarding the additional information requirements as part of the resource consent process, notably the blanket requirement for Heritage Impact Assessments (HIA) where resource consent is sought under Chapter 19. Some submissions suggested the requirement of HIA's only for certain situations and the ability for any person to prepare an HIA rather than just suitably qualified and experienced persons. Some submissions opposed the requirement for HIAs entirely.

Submissions also highlight the lack of assistance and/or funding to landowners in terms of advice, compliance and consent costs, including rates relief to assist landowners who have scheduled Historic Heritage items or increase of the existing Hamilton City Council Heritage Fund with extended accessibility to property owners within HHA's.

### *Indicative Recommendations*

I do not recommend any further changes to PC9 in response to the above matters, as HHA status is not dependent upon land ownership, and the other suggestions are not appropriate to be implemented through the District Plan.

Compensation for effects on landowners is outside the scope of PC9, and I recommend that submissions asking for such be rejected.

## **5.5 Significant Natural Areas Themes**

477 of the approximately 2000 individual submission points on PC9, received from 140 individual submitters, related directly to SNAs.

### *Theme: General*

Many submitters were generally supportive of the intent of PC9 to protect SNAs and extend SNAs to gully areas. They did not seek wholesale changes to the SNA-related components of PC9, or that the entire SNA regime be rejected. However, some submitters expressed opposition in principle to SNAs



being on private land, seeing the imposition of SNA rules on private land as an unacceptable infringement of private property rights.

Some submitters suggested various methods relating to the management of SNAs that would be more appropriately implemented separate to the District Plan and PC9. They referred to enforcing stronger requirements on people to restore and enhance SNAs. Council's perceived poor track record at maintaining public SNAs was highlighted, and improvements sought. A system to enable some trusted parties to manage SNAs without resource consent was suggested.

#### Indicative Recommendations

I recommend that the submissions that generally support the SNA components of PC9 are accepted in part, because some changes will be recommended to the notified provisions. I do not recommend any further changes to PC9 in response to the above matters, as SNA status is not dependent upon land ownership, and the other suggestions are not appropriate to be implemented through the District Plan. Council evidence will set out the wider Council response to managing SNAs.

#### *Theme: Impacts on landowners*

The identification of SNAs through PC9 and the restrictions on the subdivision, use and development of these areas has an impact on private property rights and has the potential to affect the use of the land for development; seen to impact property values in turn.

Many submitters felt that rates relief or another form of financial compensation (including purchase of the land at market value) should be provided to account for the loss in development potential and unrestricted use of the SNA land.

The proposed planning provisions and rule framework require resource consents for certain activities, which will result in additional time and costs. Private landowners with SNAs on their land are worried about those costs and consider they will potentially discourage ongoing restoration activities.

Submissions also highlight the lack of assistance and/or funding to landowners in terms of advice, restoration activities, compliance and consent costs. They comment that significant effort and investment will be required to achieve the targeted 10% indigenous cover.

Several SNAs on private land were identified by submitters as not originally being in good quality or even in existence. They were planted/restored and cared for by landowners at their own cost, who now feel as if they are being penalised for their good deeds through the restrictions and costs imposed by PC9. They identify that this could discourage landowners from carrying out future activities that create/extend/enhance SNAs.

#### Indicative Recommendations

Compensation for effects on landowners is outside the scope of PC9, and I recommend that submissions asking for such be rejected. I also note that many properties subject to proposed SNAs already have the development restrictions of the Gully Hazard Area applying to the same land.

Council evidence will set out the wider Council response to managing SNAs, including available assistance. No changes to PC9 are recommended in this respect.

I agree that private landowners are key stakeholders in protecting and enhancing the city's biodiversity and should be encouraged and facilitated to undertake restoration activities in SNAs. I recommend that some amendments are made to PC9 to better facilitate restoration activities on

private land and reduce the likelihood of consent being required for these activities. These changes are likely to provide partial relief to the above submissions.

#### *Theme: Spatial Extent of SNAs*

SNAs have been identified using the methodology set out in the Section 32 Report, applying the criteria in Appendix 5 of the WRPS. The SNA boundaries have significant implications for what can be done on the affected land, and submitters emphasise it is important for these to be delineated accurately. Submitters further emphasised the need for the boundaries of SNAs to be ground-truthed through site visits.

122 submission points were primarily concerned with the extent of SNA on or nearby the submitters' properties. Key reasons for questioning the SNA status and/or extent included the poor quality and degraded state of vegetated areas, dominance of exotics and weeds, and the presence of existing gardens and structures that were obscured by tree canopies on the aerial photography used to help inform boundaries. Some also disputed the SNA on the basis of it not being 'naturally' occurring. Just one submitter asked for their property to be added into an SNA.

#### Indicative Recommendations

I will adopt the recommendations of the ecological technical report and recommend that the SNA layer on the planning maps be amended accordingly. I note that a large number of properties have been visited by Council's ecologists since PC9 was notified, including all of those requesting a site visit in their submissions, where they were able to be contacted and agreed to this. Amendments to SNA boundaries have been made where consistent with the original methodology / WRPS criteria for SNA identification. I note that more recently planted areas, and areas with exotics and weeds, are able to meet those criteria.

#### *Theme: Provisions*

296 submission points were made specifically in relation to the SNA District Plan provisions.

The SNA provisions are generally seen by many submitters to represent a loss of control over their own land, which is felt to be unwarranted. Submitters often stated that they have already been caring for and restoring vegetated areas on their property and were concerned that the proposed provisions could restrict the types of activities they carry out in conjunction with this restoration.

Further, submitters were concerned that the provisions restrict the types of activities landowners may wish to take to enjoy the SNA and make restoration worthwhile to them, or for their privacy and security (e.g. fences). In this context submitters noted that gullies (even on private land) are sometimes used by members of the public with antisocial behaviour and rubbish being left.

I note that while the PC9 provisions relating to SNAs are generally less stringent than the operative District Plan provisions, the proposed extent of SNAs is much larger, and affects many additional landowners.

#### Indicative Recommendations

I agree that it is important for people to feel connected to and motivated to protect and enhance SNAs on their land, rather than the SNA being seen as a risk or liability. I recommend that amendments are made to PC9 to better facilitate some activities in SNAs on private land and reduce the likelihood of consent being required for these activities. These changes are likely to provide partial relief to the above submissions.

### *Sub-theme: Buildings and structures*

PC9 enables the operation and replacement of existing buildings and structures in SNAs at their existing extents. However, all new private buildings and structures require resource consent as non-complying activities. Private structures such as steps, paths, boardwalks, fences, sheds, greenhouses, posts for bird feeders, training structures for plants, and retaining structures were all sought to be enabled by various submitters (the definition of 'structure' is wide ranging and would cover all of the above, with the possible exception of paths). The submitters' rationale is to facilitate access and restoration activities, enhance privacy and security, and protect land stability.

In terms of public structures, a potential issue was identified for 'park furniture', which falls to a non-complying activity status. This includes items from park benches and rubbish bins to skate bowls and playgrounds.

#### *Indicative Recommendations*

As set out in the ecological technical report, some of these minor structures are considered to have acceptable effects on the ecological function and extent of SNAs (in particular cSNAs). I consider that improving access to, and the safety and stability of, SNAs would be potentially beneficial for the ongoing protection and restoration of these areas. Relying upon the ecological report, I also consider that minor structures such as paths, steps and retaining structures can be built and operated in a way that does not compromise SNAs' integrity. Therefore, I recommend amendments to PC9 (Rules 20.3 and 20.5) to reduce consenting requirements/thresholds for minor structures in SNAs. For similar reasons I also support amendments to apply a less stringent approach to smaller park furniture in SNAs.

Amending the rules to reduce consenting requirements for minor structures can be done in a manner that will continue to meet the WRPS and PC9 objectives in relation to the protection and enhancement of SNAs. The amendments will better provide for the social and economic wellbeing of affected landowners (via reducing consenting costs and increasing the activities permitted to be carried out in SNAs). They will also better facilitate restoration activities, with consequent ecological benefits. Conversely, there would be some ecological costs where vegetation is required to be modified to provide for the new structures and their ongoing maintenance.

The recommended amendments are consistent with Method ECO-M4 of the WRPS which states that district plans should include permitted activities where they will have minor adverse effects in relation to the maintenance or protection of indigenous biodiversity, which may include activities undertaken for the purpose of maintenance or enhancement.

### *Sub-theme: Planting, maintenance and removal*

PC9 has limited circumstances in which trees (both indigenous and exotic) in SNAs may be pruned or removed as a permitted activity, including:

- Due to disease or age: Submitters did not consider age alone to be a justification for removal.
- Where there is an unacceptable risk to public health, safety or property: This test was seen as too stringent by some, who sought to make preventative/proactive removal easier.
- If required to maintain existing private tracks and fencing: In this situation Standard 20.5.1 specifies a maximum of 15% foliage removal per tree per year, and 50mm maximum branch thickness that may be cut. Submitters sought greater or less values, or the deletion of these standards in their entirety.

- If associated with restoration: In this situation Rule 20.5.6 (applying to cSNAs only) allows removal of up to 50m<sup>2</sup> trees/vegetation per site per year (to be replanted with indigenous vegetation). Some see this as too restrictive, particularly for exotic trees. It was unclear to many if the 50m<sup>2</sup> limit applied to weeds/pest plants, as exotics. Submitters sought that pest plant removal be unhindered by the PC9 provisions.
- A new permitted status for pruning in close proximity to existing buildings and to maintain the existing extents of vegetation, or views, was also sought.

#### Indicative Recommendations

Council's ecologists concur that age alone is not a justification for removal of trees and this should be removed from the rules.

I consider that the test for when a tree poses too high a risk to health, safety or property should be set out in Rule 20.5.4, which needs to be linked to the SNA rules in Rule 20.3, and also apply to the notable trees rules.

The pruning standards (15% foliage, 50mm branch thickness) are considered to be at the right level to achieve the SNA objectives, therefore no changes are likely to be recommended to these parameters.

I support changes to the rules that clearly enable the removal of invasive plants such as tradescantia, woolly nightshade and blackberry without any area limit. However, upon ecological advice, a permitted status should not extend to larger trees (e.g. willows) that although considered pests, could provide bat habitat. I also recommend that an area limit and size standards should continue to apply to removal of other exotic (non-pest) trees, on the basis that these can provide important habitat for indigenous fauna.

Relying upon ecological input, I consider that a permitted pathway for pruning close to existing buildings should be provided in Rule 20.3(a). This is consistent with the ability to prune to maintain existing tracks and fences, although I expect that the situation with buildings directly abutting a SNA is not likely to arise often.

The amendments discussed above are considered to uphold the ecological integrity of SNAs while better facilitating restoration activities and landowner maintenance requirements, reducing some potential consenting costs.

#### *Sub-theme: Infrastructure*

PC9 has a relatively enabling policy approach in relation to infrastructure in SNAs, which some submitters supported due to the operational and functional need for infrastructure to sometimes locate in SNAs. However, this approach, in conjunction with the restricted discretionary activity status for new public walkways and cycleways through a SNA and associated vegetation removal (Rule 20.3(l)), was not supported by the Department of Conservation.

Rule 20.5.7 permits 100m<sup>2</sup> of indigenous vegetation removal per site per year for the operation, maintenance, renewal and upgrade of public walkways and cycleways and access tracks to existing infrastructure. The appropriateness of this amount of removal was questioned, as well as whether there should be a reinstatement requirement (which is not currently included in Standard 20.5.7).

### Indicative Recommendations

I consider that provisions to enable the continued operation of existing infrastructure are warranted and supported under the WRPS (including ECO-M4). In relation to new infrastructure, it appears to me that a stricter activity status for new walkways in fSNAs may be warranted, and the enabling policy approach may need to be tempered with regard to new infrastructure (in fSNAs in particular).

The 100m<sup>2</sup> permitted vegetation removal figure was supported by the section 32 analysis,<sup>2</sup> where many of the example small scale infrastructure projects required more than this amount of removal. From a purely ecological perspective, the less removal the better, however I note that enabling maintenance and upgrades of lawfully established infrastructure is consistent with the WRPS (ECO-M4). Further, there are other subclauses to this standard addressing the size of vegetation that can be removed within the 100m<sup>2</sup> figure. I remain comfortable with 100m<sup>2</sup> at this time.

While some of the cleared areas may need to remain clear for ongoing access, I agree that any other areas should be reinstated with indigenous vegetation.

Amendments as discussed above may be required to better uphold the ecological values of fSNAs and achieve Objective 20.2.1, given the potential for new walkways to have more than minor effects on fSNAs. The amendments would not change the requirement to obtain consent for new walkways, although could increase the difficulty of obtaining that consent, and make declining a consent a more realistic possibility.

Adding an indigenous vegetation reinstatement requirement after infrastructure maintenance and upgrade works are completed would better achieve the maintenance of indigenous biodiversity values.

### 5.6 Notable Trees Themes

264 of the approximately 2000 individual submission points on PC9, received from 110 individual submitters, related directly to notable trees.

A number of submitters opposed the extent of the protected root zone and sought changes to the extent of the protection root zone and provisions applying with it. Also submissions sought the removal of notable trees from the scheduled list and the protected root zones on private land to be deleted entirely as the imposition of restrictive rules related to activities within protected root zone, such as pruning and maintenance of notable trees. Most of the submitters mention the specific trees they want to exclude from the Notable Tree lists proposed under Appendix 9 of PC9.

Submitters suggested amending the policies and rules to be less restrictive for the requirement of resource consent for activities within the protected root zone and pruning and maintenance of trees.

Some submitters were generally supportive of the protection of notable trees and requested to add some additional trees into the notable trees list of PC9.

#### *Theme: Impacts on landowners/ private property rights*

Submitters consider that the policies and identification of notable trees through PC9 and the restrictions on the activities located within protected root zone have an impact on private property rights and have the potential to affect the use of the land for development and additions to or replacement of existing structures; seen to impact property values in turn.

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<sup>2</sup> Pages 113-114 of Appendix 7 to the PC9 s32 report

The submitters pointed out that the requirements are far too restrictive, and many properties are now affected by the protected root zone overlays. Therefore, submitters requested amendments to the rules to be less restrictive and/or sought financial compensation to account for the loss in development potential and various activities within the protected root zone.

Private landowners with protected root zone on their land were concerned about the development or maintenance of existing impermeable surfaces and building located within it and sought certainty that existing use rights are assured, recognised, and protected.

Some submitters also identified that there had been damage to existing building or structures by the roots of notable trees. Submitters requested Council to produce the inventory sheet to record what currently exists within protected root zone of notable trees if the protected root zone encroaches on private properties sought financial assistance for gaining resource consent required and damage cost to the affected landowners.

#### Indicative Recommendations

I recommend that submissions asking for amendments to policies and rules to recognise the maintenance and upkeep of the private boundary edge or the upkeep of private property rights where the protected root zones traverses onto private property, are accepted in part. However, I consider changing some wording of activity status rules to be less restrictive rather than changing policies will address the concerns of the submitters.

Producing of inventory sheets to record the existing structures and storage and compensation for effects of landowners is outside the scope of PC9, and I recommend that submissions asking for such be rejected.

#### *Theme: STEM Method of Evaluation*

Some submitters supported the proposed Significant Tree Assessment Valuation Method and Criteria (STEM Method of Evaluation) through Appendix 9. The submitters who support also suggested that Appendix 9 be amended to include the STEM score sheet criteria, as the additional explanation that would be of benefit for resource consent processing.

In parallel to the above, some submitters opposed the scheduling of notable trees through STEM method of evaluation and questioned the robustness of the method of evaluation. Key concerns raised in submissions relate to scoring for 'Condition Evaluation' and 'Amenity Evaluation' and identification of the large extent of protected root zone.

Some submitters suggested the 'Amenity Evaluation' should be more subjective by considering the potential adverse effects on the neighbourhood such as tree fall, and branch drops during extreme weather. They found that the 'amenity' scoring of notable trees was inconsistent with the existing conditions of trees. For instance, some submitters, noted that notable trees are considered unappealing and have potential risks for the public without contributing to the environment and community.

Submitters disagree with the assessment details, such as tree species and age; for example, structure and canopy shape are recorded as 'good', but, in reality, it is not a regular shape. Therefore, submissions also questioned why the canopy shape identified as 'poor' in STEM assessment are identified as notable trees. Another question raised by submitters was that where the total STEM score is lower than 130 are worth scheduling as notable trees. Submitters suggested to set up 130 STEM points as a minimum total STEM score to identify as notable trees.

### Indicative Recommendations

I recommend accepting those who support the STEM method because applying the STEM evaluation method for notable trees assessment is more effective and internationally accepted. I recommend the amenity evaluation concerns identified by submitters for specific trees to be required for further assessment by Council's arborist expert on whether to identify them as notable trees or not.

I agree that the criteria set up for minimum total STEM score for notable trees should not be less than 130 and Councils' expert arborist will need to review the notable trees which are lower than 130 STEM score. The final outcome and recommendation from the assessment will be included as part of the documents for the hearing in due course.

### *Theme: Removal of Notable Trees and Protected Root Zone*

101 submission points were made specifically in relation to the removal of notable trees from the PC9 schedule and regarding the extent of protected root zone on or nearby the submitters' properties.

### Sub-theme: Removal of Notable trees

Submissions raised concerns about the removal of notable trees for various reasons by highlighting limitations of provisions on activities, potential risks, current conditions of trees, and questioning assessment details. Key reasons for seeking the removal of notable trees by submitters are as follow:

- Trees' poor health;
- Health and safety risks (potential of tree fall and branches fall in storms);
- Visually unappealing;
- Interfering with private property rights;
- Notable trees provisions create a significant constraint to developing improved access at the time of any future redevelopment of the site;
- Some proposed notable trees are not native trees and are not of any significant value;
- Significant branch drop has occurred during storms and high winds;
- Blockage of fallen leaves in gutters which causes flood problem and debris problems;
- Potential hazard to pedestrians, wheelchair users, traffic, utilities; power, communications, and three water services;
- Expansion of root growth into the private properties has damaged infrastructure such as footpaths, driveways, fences and drain systems, and sewer system;
- Instability of trees (some mature trees are located on steep bank and likely to generate hazards to properties and people and are difficult to maintain);
- Trees obstructing the view of oncoming traffic can create hazards for vehicle drivers, particularly from driveways to the road;
- Extreme amounts of tree shade cause low light and dampness, which can affect health and well-being;
- Tall and thin trees can easily fall over, affecting multiple houses and can create hazards;
- Blocking of significant view shafts;
- The location of the trees are unsuitable (for example, some trees are in the middle of the driveway, located near the intersection of main roads on which the roadworks will be undertaken in the future).

### Indicative Recommendations

The removal of specific notable trees from the PC9 Notable Tree Schedule will rely upon technical advice from Council's expert arborist after re-assessment through site visits and desktop analysis. These reassessments will be included in the arboriculture technical report and will be included in the updated section 42A report to be issued later in the process.

In general, the trees which have exceeded the 130 STEM point are unlikely to be excluded from the schedule unless trees are in declining health or there are other visual indicators of unacceptable risk. Although some large trees have the potential to create risks and some inconveniences, the trees are providing significant benefits and ecosystem services to the wider community and trade-off environmental benefits are required. Trees are threatened by urban intensification, infrastructure, and development and should be protected. The arboriculture criteria used does not distinguish between native and exotic trees.

### Sub-theme: Removal of Protected root zone and Reduction of the area of Protected Root Zone

The protected root zones of notable trees have been identified using the methodology set out in the Section 32 Report, applying the criteria in Appendix 9 of PC9. The protected root zone has significant implications for what can be done on the affected land. Numerous submitters sought the removal of protected root zone as the submitters perceived the restrictions as unnecessary and impacted on future maintenance, upgrades and works that can occur within their properties.

Key reasons for seeking the removal of the protected root zone and reduction of the area of protected root zone by submitters are as follows:

- Encroachments into private land;
- The vast majority of the proposed root zone already contains existing structures within the protected root zone, such as hard surfacing, driveways, car parking, and drainage. Requiring resource consent for minor works such as replacing or repairing the seal of our driveway, building, or replacing a garden shed, storing vehicles results in significant changes to the use of land for private property owners and the submitter considered that it is entirely inappropriate for a residential environment. In addition, they raised concerns that resource consent requirement for future works and development located within this area will create financial and timing issues and it is considered difficult, which in turn de-value the property by restricting future development;
- The current root protection area was seen to extensively exceed what would be more commonly interpreted at the dripline of the tree by several metres;
- Potential inconveniences for landowners for the requirement of resource consent to do repairs and maintenance works such as underground pipes repairs within the root protection zone.

### Indicative Recommendations

The Council's arborist expert advised that when considering development near trees, the protected root zone is a generalised area where root growth is likely and the calculated area for protected root zone through trunk size would provide a more accurate interpretation of root growth compared to the dripline approach. I rely on this advice and consider that the proposed protected root zone identification is accepted. In the New Zealand arboriculture sector, the protected root zone has been the accepted method and allows for potential adverse effects on trees to be considered.



However, I agree that the restrictive rules relating to activities within the protected root zone of notable trees affect many private properties as many notable trees located on the street reserve traverse onto private properties because of the protected root zone.

Some changes will be recommended to the notified rule 20.3(w)(ii-v) and 20.3(w)(viii) related to activities within the protected root zone to be less stringent for private property owners and to better facilitate some activities within the protected root zone. This will reduce the likelihood of consent being required for these activities. These changes are likely to provide partial relief to the above submissions without changing the protected root zone overlays which transverse onto private properties.

#### *Theme: Inclusion of New Notable Trees*

A number of submitters have sought the inclusion of new notable trees in Appendix 9, Schedule 9D as they are perceived to meet the assessment criteria or have environmental or streetscape benefits. The new trees requested are as follows:

- Group of trees located on Swarbrick Park
- Old Mill Street Oaks located on Old Mill Road and Commerce Street
- Oak trees at the corner of Seddon and Mill Street
- Group of street trees located in Hayes Paddock
- The trees identified in the Burstall 1970 Report
- Memorial trees around Hockin House relating to the Waikato Historical Society
- Historic trees on Old Mill Street and corner Seddon Road and Mill Street
- Camellia at 10 Taniwha Street
- Historic landscape and historic trees within Historic Heritage Areas, in particular in Frankton East area and Marire Street, Parr Street and Taniwha Street Historic Heritage Area
- Trees at 64 Knighton Road
- Tree in front of 9 Masters Avenue and all the trees along Masters Avenue
- Trees located on Mansel Ave and Masters Ave
- London Plane trees along Ruakura Road
- Inclusion of any historic trees on private land

#### *Indicative Recommendations*

Council's arborist expert will use the same methodology and assessment criteria to evaluate each of these trees which are specifically identified by submitters. The final outcome and recommendation from the assessment will be included as part of the documents for the hearing in due course.

#### *Theme: District Plan Provisions*

100 submission points were made specifically in relation to the notable tree District Plan provisions.

PC9 was concerned with the restriction of certain activities within the protected root zone and limitations of pruning and maintenance of notable trees. A range of activities with differing activity statuses is considered and proposed. Concerns were raised that some provisions are too restrictive and do not provide sufficient flexibility and/or require resource consent for certain activities by private property owners where the protected root zones encroach onto private property.

Many submitters requested to amend the root protection zone overlay provision or the removal of these standards entirely, so as not to detract from any existing property rights and to ensure the protected root zone not encroach into private properties.

On the other hand, some submitters support the notified provisions in relation to notable trees.

Sub-theme: Provisions related to Protected Root Zone

Specifically, key concerns from submitters focused on reducing the constraints/consenting obligations of restrictive rule framework 20.3(w) for the following activities located within the protected root zone of any notable tree:

- The laying, sealing, paving, or forming of any impervious surface
- The alteration of the ground level by either permeable or impervious materials
- Additions to, or the replacement of, any existing building or structure that is proposed to exceed the envelope or footprint of the existing buildings(s) or structure(s)
- The placement and/or construction of any building or structure
- The storage of materials, vehicles, plant, or equipment

Submitters sought to amend, or delete the provisions entirely, or sought further clarification for above provisions.

- Rule 20.3(v)

Regarding Rule 20.3(v), the submitter sought clarification of the current wording for the measurement point for Rule 20.3(v) as whether it is measured 3m from the base of a notable tree, 3m from any exposed root of a notable tree, or 3m from the protected root zone.

Indicative Recommendations

I rely on the advice from Council's arborist, and I agree to remove '3m' wording from this rule to overcome confusion.

- Rule 20.3(w)(ix) – Planting of trees

Submissions questioned why the 'Planting of trees' within the protected root zone must be managed through a Restricted Discretionary consent and some sought to change the activity status to 'permitted'. Submitters were concerned that this rule may lead to confusion and unintended planning interpretation and sought further clarification for which trees can be planted within the protected root zone.

Indicative Recommendations

I do not recommend changing the activity status to 'permitted' as it is important to assess potential adverse effects and type of trees intend to be planted within protected root zone. I consider that that the current definition of 'tree' needs to be amended as it would apply in this situation as well and would provide guidance and information for planting of trees.

- Rule 20.3(w)(ii) - The laying, sealing, paving, or forming of any impervious surface

In terms of laying, sealing, paving or forming of any impervious surface located within the protected root zone, the status of these activities is proposed as restricted discretionary activity as per PC9. The submitters were concerned that the current wording does not permit maintenance or replacement of existing impervious surfaces. Key concerns were raised that the requirement of resource consent for maintenance or replacement of existing impervious surfaces or upgrades to existing street frontages is too restrictive in respect of additional costs and time required. The amendment of wording that permits maintenance, additions to and replacement of existing

impervious surfaces was suggested by submitters, and some sought to change the activity status to 'permitted'.

- Rule 20.3(w)(iii) – The alteration of the ground level by either permeable or impervious materials

The Rule 20.3(w)(iii) states that "the alteration of the ground level by either permeable or impervious materials" requires resource consent for a restricted discretionary activity. Submitters opposed this rule because this rule does not permit permeable-based improvements to the ground plane and laying of topsoil or mulching to protect existing exposed roots within protected root zone. Submitters sought the deletion of this rule in its entirety or remove 'permeable' from this rule and some sought to change the activity status to 'permitted'.

- Rule 20.3(w)(iv) – Additions to, or the replacement of, any existing building or structure that is proposed to exceed the envelope or footprint of the existing buildings(s) or structure(s)
- Rule 20.3(w)(v) – The placement and/or construction of any building or structure

The activities relating to the addition or replacement of existing buildings or structures proposed by Rule 20.3(w)(iv) is Restricted Discretionary and it is sought to be allowed as a permitted activity. Rule 20.3(w)(v) states that resource consent for a Restricted Discretionary Activity is required for the placement and/or construction of a building or structure within the protected root zone. Submissions highlighted that this rule is a duplication of Rule 20.3(w)(ii) and (iv) and sought the deletion of this rule in its entirety. Further, the submitters also raised concerns regarding the requirement for resource consent for the development or maintenance of existing buildings or structures damaged by roots of a notable tree.

- Rule 20.3(w)(viii) – The storage of materials, vehicles, plant or equipment

Rule 20.3(w)(viii) states that "*The storage of materials, vehicles, plant or equipment*" requires resource consent for a Restricted Discretionary Activity and submitters oppose this rule as this rule does not provide guidance on what would be permitted or not. Submissions raised concerns regarding existing storage and seeking to amend the rule to permit existing storage of materials, vehicles, plant and equipment. Further, clarification is sought for this rule whether the parking of cars within the driveway of private properties of which are overlaid by the protected root zone include or not.

- Rule 20.5.3 – Activities in the Protected root zone of a Notable Tree

Associated with activities in the protected root zone of a Notable Tree under PC9, standard 20.5.3 (applying to notable trees only) specifies the following:

- 35mm maximum branch thickness cutting
- 50mm maximum soil level depth
- 100mm maximum mulch layer depth
- 1sqm (maximum earthworks using non-mechanical practices)
- maximum of 10% ground disturbance for gardening using non-mechanical tools
- Roots over 35mm in diameter shall be protected using methods that ensure no bark or cambium tissue is damaged

Rule 20.5.3 links with rules 20.3(v)(i) and 20.3(w)(i), which specify if the activities exceed standard 20.5.3, the activities class are proposed as Restricted Discretionary activities.

Submitters were concerned that Rule 20.5.3 is too restrictive and does not provide sufficient flexibility to carry out works within the protected root zone. The reasons stated for opposing Rule 20.5.3 are that this standard will adversely affect the ability to maintain or establish landscaped areas within protected root zone and it will be difficult to comply with the rule.

*Indicative Recommendations for Rule 20.3(w)(ii-v), 20.3(w)(viii) and 20.5.3*

I agree that the restrictive rules relating to activities within the protected root zone of notable trees affect many private properties as the protected root zone for many notable trees located on the street reserve traverse onto private properties. It is important for people to feel connected to and motivated to maintain the notable trees on their land, rather than perceiving the notable trees as a barrier for development.

The deletion of rules is not recommended. However, I recommend that amendments are made to 20.3(w)(ii-v) and 20.3(w)(viii), except Rule 20.5.3 to provide clarification and better facilitate some activities within the protected root zone and therefore reduce the likelihood of consent being required for these activities. Moreover, a new permitted activity that permits the maintenance, alternations, additions, and replacement of existing structures within the protected root zone should be incorporated to reduce the requirement for resource consent. These changes are likely to provide partial relief to the above submissions without changing the protected root zones that transverse onto private properties.

In relation to Rule 20.5.3, arborists' recommendations will be relied on whether to apply a less stringent approach or not. I also agree that the wording rule 20.3(w)(viii) should be clarified around what kind of storage is specifically allowed.

The suggested amendment of above-mentioned rules in order to reduce consenting requirements can be done in a manner that will continue to meet the WRPS and PC9 objectives in relation to the protection and enhancement of notable trees. The amendments will better provide for the social and economic well-being of affected landowners through reducing the consenting costs and increasing the activities permitted to be carried out within protected root zone.

Adding a new permitted activity to allow flexibility for activities of existing structures that cannot exceed the Rule 20.5.3 will enable the continued operation of existing infrastructure to be warranted and supported. The linkage of this new rule and Rule 20.5.3 will enable the assessment of prospective adverse effects of activities against Assessment Criteria D3.

*Sub-theme: Provisions related to Pruning and Maintenance of notable trees - Rule 20.5.2, 20.3(u), 20.3(t), 20.3(v)*

Submitters requested amendment of specific standards to increase the allowed amount of pruning of branches and root of notable trees.

Associated with pruning and maintenance of notable trees under PC9, Rule 20.5.2 specifies the maximum allowance for pruning and maintenance of notable trees as a Permitted activity, Rule 20.3(t)(ii) and 20.3(u), which specify if the activities exceed the standard 20.5.2, the activities class are proposed as Restricted Discretionary activities.

The submitters who opposed Rule 20.3.u and Rule 20.5.2 as they see this is too restrictive when considering works for urgent health and safety; and it does not give an acceptable process for business to be proactive and minimise risk and incidents. Concerns were raised that resource consents should not be required where an organisation is completing maintenance aligned with obligations under the

Health and Safety at Work Act 2015 and the requirements for resource consent restrict the ability to maintain notable trees and meet their health and safety obligations.

Further, the submitters also raised concerns regarding the cost for the requirement for resource consent and the use of a qualified arborist to remove small branches that interfere with buildings, infrastructure, or pedestrian/vehicle accesses. Therefore, the submitters requested the resource consent fees to be free and support from Council with arboriculture suggestions with free of charge regarding the maintenance and enhancement of any notable tree.

On the other hand, some submitters supported Rule 20.5.2 and sought a reduction of the size of a branch or root that can be cut to 25mm without the supervision of a qualified Works Arborist.

In respect of Rule 20.3(t), 'Minor pruning and maintenance of Notable tree', the submitter pointed out that guidance of a qualified works arborist is required for all works identified by this rule rather than only for Rule 20.3(t)(v). In addition, all works under Rule 20.3.t. are suggested to be undertaken by hand-held non-mechanical means and to change the wording of this rule.

#### *Indicative Recommendations for Rule 20.5.2, 20.3(u), 20.3(t), 20.3(v)*

The pruning and maintenance of notable trees have been already permitted to some extent as mentioned in rule 20.3(t) and rule 20.5.2. I consider that the notified restricted discretionary activity status as per 20.3(u) will enable proper pruning and maintenance of notable trees with the guidance of qualified arborist. However, I recommend that some flexibility to allow more pruning amount in Rule 20.5.2 should be amended to reduce resource consent requirements. The increased branch and root size that can be pruned will depend on the recommendation of council's arborists and included in the arboriculture technical report or will be in the updated section 42A report to be issued later in the process.

Support and consent costs are outside the scope of PC9, and I recommend that submissions asking for such be rejected. Alternatively, I do not recommend amending as per the relief seeking for less allowances of measurement of branch or root to be cut to 25mm.

Regarding rule 20.3(t), I partially agree with the submitters' relief sought for supervision of qualified arborists is required in some circumstances, however in other instances tree work may not need to be undertaken by or under the supervision of a qualified arborist. I do not agree that non-mechanical tools are only to be used for maintenance and pruning because in some cases, mechanical tools are required to use for tree pruning works.

The recommendation as above to allow some more pruning amount will partly address submitters' concerns for resource consent requirements and it will still meet the Objective 20.2.3 by enhancing protection and maintenance of notable trees. For example, amending rules relating to the maximum branch size allowed to be pruned from 35mm to 50mm will not be detrimental to the tree health and will reduce consenting costs.

#### *Theme: Notable trees Definition and Terminology*

##### *Sub-theme: Definition of Protected Root Zone*

A submitter opposed the notified PC9 definition for 'protected root zone' because it is considered too complex to calculate the measurement of the protected root zone. The relief sought was to amend the definition of the protected root zone based on the 'dripline' approach as they consider that it is simpler for the general public to identify protected root zone.

Furthermore, some submitters sought clarification regarding implementing of the protected root zone calculation methodology as per the definition, and how the rule will manage the effect of expanded protected root zone of notable trees as the trees are growing over time.

#### Indicative Recommendations

I rely on the advice from experts that the New Zealand Arboriculture Association has generally accepted and adopted three international standards (British standard 5837:2012, American National Standards Institute A300 and the Australian standard 4970-2009), which generally use the 12x stem diameter for the root growth interpretation, Therefore, I recommend that the proposed definition of protected root zone to be retained and the dripline approach for protected root zone to be rejected.

#### Sub-theme: Emergency works to, or removal of, a Notable Tree - Rule 20.3(s) and 20.5.4

PC9 has a relatively enabling policy approach in relation to emergency works to, or removal of, a notable tree, which some submitters supported due to the permitted activity status in terms of risk and safety reasons. Rule 20.3(s) permits the removal of trees if the tree has failed and is an 'imminent risk' to public health, while a similar rule for SNA Rule 20.3(a) uses the terms 'unacceptable risk' to public health'. Submitters requested to use consistent terminology for similar provisions to be aligned.

In addition, specific concerns were raised regarding the emergency works standard 20.5.4, the submitter sought a clear process for the rule and definition of 'appropriately qualified arborist' to be included.

#### Indicative Recommendation

I recommend accepting in part submitters who generally support the provisions enabling emergency works and or removal of notable trees. I agree that the terminology of risk and type of risk assessment should be consistent between notable trees and SNA's.

For Rule 20.5.4, I do not agree to add the definition of 'appropriately qualified arborist' in the District Plan, only an advisory note would be useful for the public. The clarification of the process has been already generally outlined and I consider that further process may depend on case-by-case situation.

#### *Theme: Proposed Notable trees through PC9 on Private Land*

Some submitters made submissions to remove notable trees located on their private land. (For example: the ownership of notable trees T253.2 and T253.3 are on private land, and they are scheduled as notable trees even though PC9 says the notable trees lists are all on public land.) Therefore, submitters opposed and raised concerns that council incorrectly put in the list and on the map.

#### Indicative Recommendations

I recommend that Council's expert arborist review the proposed notable trees located on private land and delete these trees from the list and map.

#### *Theme: Mapping of Protected Root Zone*

Regarding the mapping extent of the protected root zone in PC9, an additional note was added for the identification of the extent of the protected root zone under the proposed activity status rule 20.3. This rule specifies how to identify and measure the radius of the protected root zone. A

submitter has sought that the protected root zone be displayed on the District Plan planning maps, but as indicative rather than doing measurements at the physical location.

#### Indicative Recommendations

I believe that the notable trees' location and their protected root zone have been mapped using the GIS and aerial mapping by Council. Although this is generally accurate, the topographical survey and physical radius measurement or from the centre of the trunk of the notable tree will be more accurate to identify the protected root zone.

## **6.0 Plan Change 9 Alignment with Higher Order Planning Documents**

This section evaluates PC9 in respect of the relevant higher order statutory planning documents, with particular reference to the Section 32 Evaluation Report which provides more detailed evaluations. The relevant higher order planning documents evaluated here are as follows:

- Resource Management Act
- Te Ture Whaimana o Te Awa o Waikato
- National Policy Statements
- National Environmental Standards
- Waikato Regional Policy Statement
- Waikato Regional Plan
- Other Management Plans and Strategies.

### **6.1 Resource Management Act 1991**

Within the Section 32 Evaluation Report (Section 4.1.1) is an evaluation of Plan Change 9 in relation to the RMA, and in particular sections 5 to 8 RMA, sections 31 and 74 to 76 regarding territorial authority functions within district plans and associated rule provisions. Appendix 1 to the Section 32 Evaluation Report also responds to the various statutory RMA matters focused around meeting the requirements of the Schedule 1 plan-making process.

#### *Part 2 RMA*

In respect of Part 2 RMA matters, for section 8 RMA the Section 32 Evaluation Report (particularly Appendix 4 – Consultation) details the engagement with mana whenua during the formulation of PC9. The Section 32 Evaluation Report concludes that the process for preparing PC9 and the associated provisions has taken into account the Principles of Te Tiriti o Waitangi, and on the basis of the PC9 supporting documentation this is concurred with.

In respect of section 7 RMA 'other matters', the Section 32 Evaluation Report identifies the various sub-sections most relevant to PC9 as being (a) kaitiakitanga; (b) efficient use and development of natural and physical resources, (c) amenity values, (d) intrinsic values of ecosystems (f) the quality of the environment, and (g) finite characteristics of natural and physical resources. Section 7(c) is also relevant when considering notable trees, as the Section 32 Evaluation Report notes that their identification is based on the significant presence they hold in their immediate environment as well as the amenity values they provide. There are considered to be clear linkages to the section 7 RMA 'other matters' as described within the Section 32 Evaluation Report, and this is concurred with.

In respect of section 6 RMA 'matters of national importance', the Section 32 Evaluation Report identifies that PC9 is directly seeking to give effect to sections 6 c) and f) of the RMA.

For SNAs, amendments to plan provisions can continue to appropriately recognise and provide for the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna, as required by section 6(c), while better enabling people and communities to provide for their social and economic well-being and for their health and safety as per section 5. Specifically, it has been assessed as likely that the ecological values and integrity of SNAs can be upheld while allowing for more development/activities that are minor in nature and have positive social/environmental effects, without incurring the cost of a resource consenting process.

For historic heritage (the HHA topic), 'the protection of historic heritage from inappropriate subdivision, use and development' is a requirement of section 6(f) RMA. The identification of HHAs seeks to replace the provisions within the District Plan for the Special Residential Zone (Claudelands West and Hamilton East) and the Special Heritage Zone (for the Frankton Railway Village, Hayes Paddock and the Hamilton East Villas) within Chapter 5 Special Character Zones. The PC9 review work and background research leading to the identification of HHAs, is an attempt to enhance the identification and protection of historic heritage in the city.

For notable trees, the protection of notable trees is specifically provided for with restrictions within sections 76(4A), (4B), (4C) and (4D) of the RMA. Whilst not a direct response to sections 6 or 7 of the RMA, the scheduling and protection of notable trees is an existing mechanism within the District Plan, and PC9 is seeking to enhance the identification and protection of such trees. PC9 is also introducing an enhanced assessment method known as STEM in accordance with arboricultural best practice. This topic within PC9 is considered a response to the sustainable management purpose of the RMA, is consistent with section 31 RMA functions of territorial authorities, and consistent with sections 75 and 76 in respect of the contents of district plans.

In respect of section 5 the purpose of the RMA, the Section 32 Evaluation Report describes the responses within PC9 to historic heritage and natural environments in the context of the sustainable management purpose of the RMA. It reports that historic heritage is a natural and physical resource that contributes to an understanding and appreciation of New Zealand's history and culture and must be sustainably managed. The proposed provisions of PC9 clearly relate to the identification, recognition, protection and enhancement of SNA, notable trees, historic heritage areas, built heritage, and archaeological sites, to ensure that Hamilton City Council appropriately manages these values within the city, and contributes to achieving the purpose of the RMA.

#### *Section 32 RMA*

The Section 32 Evaluation Report details that these provisions will meet the needs of the community, to understand and appreciate the history, including the periods of development which have historic heritage significance in the development of Hamilton. These provisions will also identify and protect more areas of SNA within Hamilton City and recognise the different values and functions for which each SNA has been assessed as ecologically significant, including both significant floristic values and areas that provide significant habitat, ecological corridor and connectivity functions and values. The associated PC9 amendments to District Plan provisions aims to enhance the response to better ensure that the adverse effects of inappropriate subdivision, use and development on the historic heritage resources and natural environment are avoided, remedied or mitigated. This is concurred with and PC9 is considered to be consistent with the purpose of the RMA, subject to suitably responding to matters raised in submissions.

PC9 is considered to be consistent with Part 2 of the RMA, subject to suitably responding to matters raised in submissions, for the reasons given above.



## 6.2 Te Ture Whaimana o Te Awa o Waikato

The Section 32 Evaluation Report at Section 4.1.4 describes the statutory importance and contents of Te Ture Whaimana o Te Awa o Waikato - Vision and Strategy for the Waikato River, and this is concurred with. Te Ture Whaimana has been incorporated into the Waikato Regional Policy Statement (the WRPS) and has the statutory status of a national policy statement.

The Section 32 Evaluation Report describes that the primary PC9 responses to Te Ture Whaimana are the enhanced identification and protection of archaeological sites as the majority are directly linked to Māori habitation before 1863 (such as paa, urupa or borrow pits), and better recognise and provide for the historic heritage values of, and the cultural and spiritual relationship of Waikato River iwi and hapuu with the Waikato River. Also through the enhanced identification of SNAs in the city to provide for the enhancement of the city's biodiversity through the restoration of the Waikato River margins and gully systems.

We consider that PC9 contributes to Hamilton City Council's wider response to achieving the objectives, vision and strategies of Te Ture Whaimana, and concur with the assessment in the Section 32 Evaluation Report.

## 6.3 National Planning Documents

The Section 32 Evaluation Report at Section 4.1.4 addresses the National Policy Statement on Urban Development 2020 ('NPSUD') and the exposure draft of the Proposed National Policy Statement for Indigenous Biodiversity. The NPSUD is also linked with the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 as it has modified the expected outputs resulting from the NPS-UD. Council's response to the Amendment Act 2021 and the associated Medium Density Residential Standards is via PC12.

As stated in the Section 32 Evaluation Report the purpose of PC9 is for the identification and protection of both historic heritage, and natural environments as defined in the Operative District Plan. The identification of areas and sites subject to built heritage, historic heritage areas, archaeological and cultural sites and significant natural areas are of 'a matter of national significance' under section 6 of the RMA, which is a qualifying matter as specified in subpart 6 of the NPSUD. The rules and provisions proposed in PC9 are for the identification, recognition, protection and enhancement of these matters. The modification of how MDRS rules and provisions are applied in the city to accommodate a qualifying matter is being addressed through the PC12 hearings process. The Section 32 Evaluation Report states that PC9 gives effect to the objectives and policies of NPSUD that are relevant to the subject matter of the plan change. This includes in particular contributing to achieving well-functioning urban environments, where historic heritage is sustainably managed. This is concurred with, and no other national policy statement is considered relevant to PC9.

The exposure draft of the Proposed National Policy Statement for Indigenous Biodiversity ('NPSIB exposure draft') has relevance to the SNA topic. The NPSIB exposure draft has no legal effect and is subject to potential future change. The Section 32 Evaluation Report describes that it has been considered in designing the methodology adopted for the SNA study, and the effects management hierarchy has been considered in formulating the proposed PC9 provisions. This is concurred with, and if the NPSIB is gazetted and takes legal effect prior to decisions on PC9 being released then this matter will take greater prominence.

None of the national environmental standards are considered to have particular relevance to PC9.

#### 6.4 Regional Planning Documents

Section 4.1.5 of the Section 32 Evaluation Report assesses the significant elements of the Waikato Regional Policy Statement ('WRPS') in relation to PC9. In particular the provisions relating to integrated management; the relationship with tangata whenua and the environment; the built environment; historic and cultural heritage; natural character; managing historic and cultural heritage; maintaining or enhancing indigenous biodiversity; and protecting significant indigenous vegetation and significant habitats of indigenous fauna.

The Section 32 Evaluation Report is considered to provide detailed evaluations of the approach and outcomes promoted by PC9 and is concurred with. PC9 is seeking to enhance the outcomes achieved in respect of historic heritage and the natural environment within the city, and better give effect to the provisions of the WRPS.

Since the Section 32 Evaluation Report was prepared the WRPS has been converted to National Planning Standards format. While the references have changed, the provisions remain the same.

In respect of the Waikato Regional Plan ('WRP') the Section 32 Evaluation Report identifies no areas of inconsistency with the WRP. This is concurred with.

#### 6.5 Other Management Plans and Strategies

Sections 4.1.7 and 4.1.8 of the Section 32 Evaluation Report provides assessment of PC9 in relation to Tai Tumu Tai Pari Tai Ao, the Waikato-Tainui Environment Plan; and Te Raukai Tamata Ao Turoa O Haua, the Ngati Haua Environmental Management Plan. There is no need to repeat these assessments, but they are considered robust and thorough and are concurred with.

The Waikato-Tainui Environment Plan pays particular attention to the management of waahi tapu and waahi tupuna sites within the city, and the need for Waikato-Tainui to have involvement in managing such sites, irrespective of whether they are identified in the District Plan or not. The key relevance of this is with the archaeological and cultural sites topic, and the related work programme being undertaken by Council which is not part of PC9, to identify and manage cultural sites of significance to mana whenua.

Similarly, with the Ngati Haua Environmental Management Plan and identification of sites of significance, the site identification process for the archaeological and cultural sites PC9 topic has been based on the New Zealand Archaeological Association records, rather than detailed engagement with Ngati Haua.

At Section 4.1.9 of the Section 32 Evaluation Report there is a discussion of the relevance to PC9 of the Heritage New Zealand Pouhere Taonga Act 2014 ('HNZPT Act'). The key point made in that discussion is that whilst the HNZPT Act is the primary legislation for the protection of archaeological sites and historic heritage, that PC9 responds directly to section 6 RMA rather than the provisions of HNZPT Act given the responsibilities and obligations of territorial authorities.

Section 4.2 of the Section 32 Evaluation Report describes a series of non-statutory documents in relation to PC9. The Hamilton Heritage Plan (2016) sets out a series of goals for identification and protection of heritage within the city. PC9 represents the Council's primary response to the Hamilton Heritage Plan and is the outcome of the work undertaken (in conjunction with stakeholders) since 2016.

He Pou Manawa Ora: Pillars of Wellbeing (2020) and the Nature in the City Strategy 2020 -2050, are two further non-statutory documents prepared by Council. They form part of the basis for the

archaeological and cultural sites topic and the significant natural areas topic within PC9. The Section 32 Evaluation Report discusses these strategies as part of the underpinnings of PC9.

The above discussions within the Section 32 Evaluation Report are concurred with, and the report together with the attached appendices are considered a robust and thorough analysis of the relevant higher order planning documents.

## 7.0 Section 32 / 32AA Considerations

The Section 32 Evaluation Report dated 22 June 2022 and the associated appendices provide the background analysis of the plan change, the supporting technical reports for each of the PC9 topics, as well as providing a robust and thorough evaluation pursuant to section 32 RMA. The appendices to that report are as follows:

- Appendix 1: Statutory Requirements
- Appendix 2: Explanation of the five matters addressed in Plan Change 9
- Appendix 3: Draft Proposed Plan Change 9 Provisions
- Appendix 4: Consultation
- Appendix 5: Matters for Consideration and Scale and Significance
- Appendix 6: Assessment of Options to Achieve Objectives S32(1)(B)(I))
- Appendix 7: Evaluation of Objectives, Policies and Rules and Efficiency And Effectiveness of the Provisions (S32(1), (2) and (3))
- Appendix 8: Built Heritage Methodology Report
- Appendix 9: Historic Heritage Areas Report
- Appendix 10: Archaeological Sites Report
- Appendix 11: Notable Trees
- Appendix 12: Significant Natural Areas

The Section 32 Evaluation Report and appendices have been reviewed and are considered an adequate evaluation to meet the requirements of section 32 RMA.

Pursuant to section 32AA RMA, *“a further evaluation required under this Act...for any changes that have been made to, or are proposed for, the proposal since the evaluation report for the proposal was completed...must be undertaken in accordance with section 32(1) to (4)...and be undertaken at a level of detail that corresponds to the scale and significance of the changes...and be published in an evaluation report that is made available for public inspection at the same time as the approved proposal...or be referred to in the decision-making record in sufficient detail to demonstrate that the further evaluation was undertaken in accordance with this section.”*

Section 32AA evaluations will be provided in several ways as part of the section 42A RMA reporting process. These are intended to be as follows:

- Within section 5 of this report a series of brief section 32AA evaluations are provided to the themes and issues identified for each of the hearing Session 1 topics at a broad level (corresponding to the broad responses provided within this report).
- Within the Session 1 Planning Report (due 6 April) an update will be provided on responses and recommendations to the themes and issues identified including section 32AA evaluations provided in more detail.

- Within the recommendations on the decisions sought by submitters (the recommendations spreadsheet) a column heading is 'Recommendations / Section 32AA Reasons', which will also provide section 32AA evaluation and reasoning for recommendations to the panel.

The extent of these section 32AA evaluations will be at a level of detail that corresponds to the scale and significance of the changes to the PC9 provisions, as recommended to the panel. At the time of writing this Themes and Issues Report this cannot be fully known as the recommendations are still be developed. The expert conferencing to be held the weeks of 13 and 20 March 2023 will also inform the recommendations on the decisions sought by submitters.

The section 32AA further evaluation for the recommended amendments to PC9 will be undertaken pursuant to section 32(1) to (4) and accordingly examine the following:

- Whether the amended objectives are the best way to achieve the purpose of the RMA,
- Whether the provisions in the proposal are the most appropriate way to achieve the objectives, identifying the other reasonably practicable options for achieving the objectives, assessing the efficiency and effectiveness of the provisions in achieving the objectives, and summarising the reasons for deciding on the provisions,
- Contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal,
- Must identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for economic growth that are anticipated to be provided or reduced, and employment that are anticipated to be provided or reduced,
- If practicable, quantify the benefits and costs, and
- Assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.

Recommendations on editorial, minor and consequential changes that improve the effectiveness of provisions without changing the policy approach will not be re-evaluated.

## 8.0 Conclusion

This report summarises the high-level themes and issues arising from submissions and further submissions received regarding the hearing Session 1 Plan Change 9 topics of Historic Heritage Areas, Significant Natural Areas, and Notable Trees. As highlighted in the report, key points include:

### *Historic Heritage Areas – Key Themes*

- Philosophical positions around whether HHAs should be pursued
- Whether the approach has been applied well enough spatially
- Whether the approach has been applied well enough spatially
- Are the mapped HHA spatial extents right or not?
- Are the plan provisions that apply within an HHA too restrictive or too permissive?
- Will the HHA provisions achieve the intended outcomes or result in unintended consequences?

### *Significant Natural Areas - Key Themes*

- Philosophical Positions on the Identification and Protection of SNAs and Impact on Landowners
- Spatial Extent of SNAs
- Plan Provisions relating to SNA

### *Notable Trees - Key Themes*

- Philosophical Positions on the Identification and Protection of Notable Trees
- Method of Evaluation
- Seek to Schedule New Trees / Remove Notable Trees
- Notable tree provisions and definitions

No recommendation or specific responses to these issues is included in this report, but the report has sought to provide a 'direction of travel' on as many themes and issues as possible to assist the parties in preparing for the hearing Session 1 and the upcoming expert conferencing. This includes an update on the further technical work being undertaken by the Council's technical specialist team, with fieldwork and in some cases site by site submitter discussions taking place. It is envisaged that this will continue both prior to and following expert conferencing and be fully reported on within the hearing Session 1 Planning Report to be made available to all parties on 6 April 2023.

### **Report Authors**



Craig Sharman  
**Plan Change 9 Section 42A Lead**



Va Mauala  
**Plan Change 9 Historic Heritage Areas Section 42A Lead**



Emily Buckingham  
**Plan Change 9 Significant Natural Areas Section 42A Lead**



Yin May Soe  
**Plan Change 9 Notable Trees Section 42A Lead**