

**From:** [Official Information](#)  
**To:** S 7(2)(a)  
**Cc:** [Official Information](#)  
**Subject:** Final response - LGOIMA 341219 - S 7(2)(a) - NPS - UD legal requirement 3.6 & 3.7  
**Date:** Wednesday, 23 August 2023 8:29:30 am  
**Attachments:** [image004.png](#)

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Kia ora,

We refer to your information request below. Hamilton City Council provides the following response.

**NPS -UD legal requirements/ 3.6 & 3.7**

**Your request:**

*I understand that you are currently working on an upgraded HBA which is not expected to be available until 2024.*

**Our response**

Updated HBAs for Residential and Business are being currently worked on and will be ready shortly, in accordance with requirements to complete by 2024 and also to inform the Future Development Strategy.

**Your request:**

*However the Residential Capacity Feasibility Model prepared by Market Economics on the 8th of February 2023 it's completely contrary to Plan Change 12 Enabling Housing (appendix 2.5) Infrastructure Capacity, which states that there is virtually no spare capacity anywhere in the city for the intensification envisaged under the Residential Capacity Feasibility Model. Although you were legally required to address infrastructure issues within the feasibility model, I note: that the assessments were advised not to apply infrastructure constraints within Hamilton city existing urban areas.*

**Our response:**

Paragraph 3 of Appendix 2.5 to the s.32 for PC12 'Infrastructure Capacity Provisions' states at the third paragraph of section 11 'Conclusion', that:

*"Council's Infrastructure team have reviewed available information on three waters infrastructure capacity within the city, providing a "traffic light" assessment. This assessment highlights that there is insufficient capacity across much of the city to meet current demands, let alone additional demands that may be generated by the required NPS-UD or MDRS amendments."*

To address the identified issue of capacity Appendix 2.5 recommends the introduction of inter alia an Infrastructure Capacity Overlay (ICO) to the package of PC12 provisions that triggers a requirement for an assessment of a development on local 3 waters networks. This approach is on the basis that further development may not necessarily be prevented from an area, but that

more detailed investigations are needed to confirm the sufficiency of capacity.

The Residential Capacity Feasibility Modelling report dated 8.2.23 incorporates this ICO through Scenario 3, described at page 9 of the report. Essentially the MDRS provisions are 'tempered' by a reduced capacity assumption in areas under the ICO.

At page 45 of the Feasibility Modelling Report the following is stated:

*"The application of qualifying matters reduces the total feasible capacity by between 23% and 28%, and by 24% over the long-term. This amounts to a reduction of 15,000 dwellings in the current market situation and around 56,000 dwellings in the long-term. Importantly, these show the differences in total potential feasible capacity options and not the reduction in dwelling capacity likely to be delivered by the market. The level of estimated feasible capacity is well ahead of projected dwelling demand over all time periods under all scenarios."*

Where the report at Appendix 2.5 to the s.32 for PC12 states there is currently insufficient capacity for existing development, let alone PC12 development, this is specifically recognised in the Residential Capacity Feasibility report through reduced development in areas subject to the ICO. This has been brought through to Plan Change 12 through the application of the ICO across large areas of the City, providing the ability on a site-by-site basis to determine whether there is locally sufficient infrastructure capacity for a development.

That scenario 3 provides for additional intensification acknowledges that in some parts of the City affected by the ICO local infrastructure will have capacity for further development, and also importantly over time (out to 2051) infrastructure capacity will be progressively improved.

#### **Your request:**

*However, because of the seriousness of the situation my question is, have you advised the Minister for the Environment of "insufficient capacity" or what steps, if any have been taken to advise the ministers.*

#### **Our response:**

Notification to the Minister is only required where a local authority identifies insufficient development capacity over the short, medium or long term. The sufficiency of development capacity within Hamilton will be evaluated within the forthcoming Housing and Business Assessments. As these assessments have not yet been completed, outcomes are not yet known and notification to the Minister at this time would be premature.

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#### **NPS -UD legal requirement 3.9 Monitoring:**

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#### **Your request:**

*I have been unable to find this information on any website. I assumed it would have been*

*published under Future Proof links. Please advise where this information can be found with the links.*

**Our response:**

It is correct that HCC must monitor the below matters quarterly, however the NPS UD only requires that this be published annually.

Previous reporting on these matters is contained under the Future Proof website:  
<https://futureproof.org.nz/documents-and-submissions/documents/>

Due to the uncertainty around the accuracy of central government data and impending release of the 2024 HBA (Business And Residential) it was determined to suspend the publication of indicators at this point until HBA release and then return to an annual publication programme.

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz) or freephone 0800 802 602.

**Ngaa mihi**

**Keeley Faulkner**

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Good morning, There is a legal requirement under 3.9 for you to update quarterly (a) the demand for dwellings (b) the supply of dwellings (c) the price of and rents etc (d) housing affordability ( e ) the proportion of housing development capacity etc. ( f ) availability data on business land.

**Question.** I have been unable to find this information on any website. I assumed it would have

been published under Future Proof links. Please advise where this information can be found with the links.

Thanks

Kind Regards

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**From:** S 7(2)(a)

**Sent:** Thursday, 3 August 2023 10:16 am

**To:** Official Information <[officialinformation@hcc.govt.nz](mailto:officialinformation@hcc.govt.nz)>

**Subject:** NPS -UD legal requirements/ 3.6 & 3.7

**Good morning, I refer you to your legal requirements under the NPS -UD. It states 3.6 (1) the purpose of the housing bottom line by this clause is to clearly state the amount of development capacity that is sufficient to meet expected housing demand plus the appropriate competitive margin in the region in every constituent district of Tier 1 and Tier 2 through the urban environments.**

**3.6 (3) the housing bottom line must be based on information in the most recently publicly available HBA for the urban environment and (a) (1) the amount of feasible reasonably expected to be realised development capacity that must be enabled to meet demand along with the competitive margin for the short term.**

**3.7 Where there is insufficient development capacity** (1) if the local authority determines that there is insufficient development capacity as described by clause 3.2 and 3.3 (a) it must immediately notified the Minister for the Environment etcetera

I understand that you are currently working on an upgraded HBA which is not expected to be available until 2024.

However the Residential Capacity Feasibility Model prepared by Market Economics on the 8th of

February 2023 it's completely contrary to Plan Change 12 Enabling Housing (appendix 2.5) Infrastructure Capacity, **which states that there is virtually no spare capacity anywhere in the city for the intensification envisaged under the Residential Capacity Feasibility Model.** Although you were legally required to address infrastructure issues within the feasibility model, I note: **that the assessments were advised not to apply infrastructure constraints within Hamilton city existing urban areas.**

Clause 3.7 has a legal requirement for you to immediately notify the Minister for the Environment if you have insufficient development capacity. I appreciate that you are not legally required to disclose that information until the HBA has been undertaken.

**However, because of the seriousness of the situation my question is, have you advised the Minister for the Environment of "insufficient capacity" or what steps, if any have been taken to advise they ministers.**

**Please note I will be advising the Minister of my investigation.**

Kind Regards

**S 7(2)(a)**

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