



Proposed Plan Change 78 (PC78)

to the Auckland Unitary Plan (Operative in part)

SECTION 32 and sec77K / sec 77Q alternative process for existing qualifying matters

EVALUATION REPORT for EMERGENCY MANAGEMENT AREAS as a qualifying matter in accordance with sections 77I(e) and 77O(e)

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Executive Summary

This draft report discusses the implications of applying Chapter E29 – Emergency Management Areas - Hazardous facilities and infrastructure (Wiri Oil Terminal, Wiri LPG Depot and high pressure Refinery to Auckland petroleum pipeline)(EMA's), in the Auckland Unitary Plan (Operative in Part)(AUP), as a qualifying matter to the medium density residential standards (MDRS) of Schedule 3A of the Resource Management Act 1991 (RMA). And the implementation of Policy 3 of the National Policy Statement on Urban Development 2020 – updated 2022 (NPS-UD).

Introduction

This draft report is prepared as part of the evaluation required by Section 32 and Sections 77K and 77Q of the Resource Management Act 1991 ('the Act') for proposed Plan Change 78 (PC78) to the Auckland Unitary Plan (Operative in Part) (AUP).

The background to and objectives of PC78 are discussed in the overview report, as is the purpose and required content of section 32 and 77K / 77Q evaluations.

This draft report discusses the implications of applying EMA's as a qualifying matter to the medium density residential standards (MDRS) of Schedule 3A of the RMA and the implementation of policy 3 of the NPS-UD.

An existing qualifying matter is a qualifying matter referred to in section 77 I or 77O (a) to (i) that is operative in the relevant district plan when the IPI is notified.

- Sec 77I relates to relevant residential zones.
- Sec 77O relates to urban non-residential zones.

The Council may make the MDRS and the relevant building height or density requirements under policy 3 less enabling of development in relation to an area within a relevant residential zone or urban non-residential zone only to the extent necessary to accommodate 1 or more of the qualifying matters listed in 77I or 77O.

Integrated evaluation for existing qualifying matters

For the purposes of plan change 78, evaluation of EMA's as an existing qualifying matter has been undertaken in an integrated way that combines sec 32 and 77K / 77Q requirements. The report follows the evaluation approach described in the table below.

Preparation of this report has involved the following:

- review of the AUP to identify all relevant provisions that apply this qualifying matter
- assessment of the identified relevant provisions within the AUP relating to Emergency Management Areas against the Medium Density Residential Standards in accordance with Schedule 3A of the RMA
- development of draft amendments to the operative district plan provisions of the AUP to implement this matter as a Qualifying Matter in accordance with s77I(e) and s77O(e)
- review of the AUP to identify all relevant provisions that require a consequential amendment to integrate the application of this qualifying matter
- review of the AUP Maps to assess the spatial application of this qualifying matter
- section 32 options analysis for this qualifying matter and related amendments.

The scale and significance of the issues is assessed to be minor.

This draft section 32 and 77K/77Q evaluation report will continue to be refined in response to any consultation feedback provided to the council, and in response to any new information received.

Table 1 Integrated approach

Standard sec 32 steps	Plus sec 77K / 77Q steps for existing qualifying matter
<p>Issue</p> <p>Define the problem- provide overview/summary providing an analysis of the qualifying matter</p>	<p>Sec 77K or 77Q (1) (a)</p> <p>Describe the qualifying matter.</p> <p>Identify by location (for example, by mapping) where an existing qualifying matter applies</p>
<p>Identify and discuss objectives / outcomes</p>	<p>Sec 77K or 77Q(1) (c)</p> <p>Identify relevant RPS objectives and policies. Describe why the Council considers that 1 or more existing qualifying matters apply to these areas and why the qualifying matter is necessary.</p>
<p>Identify and screen response options</p>	<p>Sec 77k or 77Q (1) (b)</p> <p>Consider a range of alternative density standards for those areas having considered the particular MDRS standards and/or Policy 3 intensification requirements</p>
<p>Collect information on the selected option(s)</p>	<p>Sec 77K or Q (1) (d)</p> <p>Describe in general terms for a typical site the level of development that would be prevented by accommodating the qualifying matter, in comparison with the level of development that would have been permitted by the MDRS and policy 3 having regard to the modified zone, with regard to the identified density options</p>
<p>Evaluate option(s) - environmental, social, economic, cultural benefits and costs</p>	<p>Sec 77K or Q (1) (b)</p> <p>Provide a general assessment of the benefits and costs of the options in the light of the new objectives introduced by the NPS-UD and MDRS relating to well-functioning urban environments</p>
<p>Overall judgement as to the better option (taking into account risks of acting or not acting)</p>	<p>Conclusion as to the implications of the qualifying matter for development capacity to be enabled by NPS-UD/MDRS in the areas where the qualifying matter applies</p>

Issues

The qualifying matter being evaluated is EMA's under the following sections of the RMA:

Residential zones:

- 77I(e) – a matter required for the purpose of ensuring the safe or efficient operation of nationally significant infrastructure, is identified as a qualifying matter. The definition of ‘nationally significant infrastructure’ includes (d) the high-pressure gas transmission pipeline network operating in the North Island and (e) the refinery pipeline between Marsden Point and Wiri
- 77K – Chapter E29 EMA’s is an existing qualifying matter in the district plan section of the Auckland Unitary Plan (Operative in Part). Therefore, Section 77K alternative process for existing qualifying matters is appropriate for the Section 32 assessment.

Non-residential zones:

- 77O(e) - a matter required for the purpose of ensuring the safe or efficient operation of nationally significant infrastructure, is identified as a qualifying matter. The definition of ‘nationally significant infrastructure’ includes (e) the high-pressure gas transmission pipeline network operating in the North Island and (d) the refinery pipeline between Marsden Point and Wiri.
77Q - Chapter E29 EMA’s is an existing qualifying matter in the district plan section of the Auckland Unitary Plan (Operative in Part). Therefore, Section 77Q alternative process for existing qualifying matters is appropriate for the Section 32 assessment.

Overview of the qualifying matter

Chapter 29 of the AUP provides for the following hazardous facilities and infrastructure:

- Wiri Oil Terminal,
- Wiri LPG Depot
- high pressure Refinery to Auckland petroleum pipeline.

Chapter 29 of the AUP provides a framework to manage the risk of adverse effects on activities located in proximity to existing hazardous facilities and infrastructure.

Hazardous facilities and infrastructure pose a risk to surrounding land uses and can result in emergency events. These are events of low probability but high potential harm to people and damage to property. They may include vapour cloud explosions, large fires or the release of toxic gas which could cause blast overpressure, fragments, heat radiation or poisoning.

Restricting or managing the encroachment of land uses in proximity of certain existing hazardous facilities and infrastructure may be necessary to ensure that risk to those land uses is appropriately managed. This is also to ensure that the operation and potential expansion of the facilities and infrastructure is not compromised by surrounding incompatible or conflicting land uses. Incompatible activities may create a lower threshold of acceptable risk in the receiving environment and generate reverse sensitivity effects. Some of these hazardous facilities and infrastructure are critical to the functioning of Auckland and New Zealand.

The provisions for emergency management areas have two related elements that may be relevant to the activity (refer to Figure 1 below for an example of the Wiri Oil Terminal):

- an inner emergency management area applies to the area closest to the facility and is subject to the greatest potential effects from emergency events. In addition to

the preparation of emergency management plans, building design elements must be considered for all buildings within this area; and

- a wider Emergency Management Area applies to an area around the inner emergency management area, which requires the preparation of emergency management plans to ensure that activities operating within proximity of the hazardous facilities and infrastructure are aware of the risks and are suitably prepared.

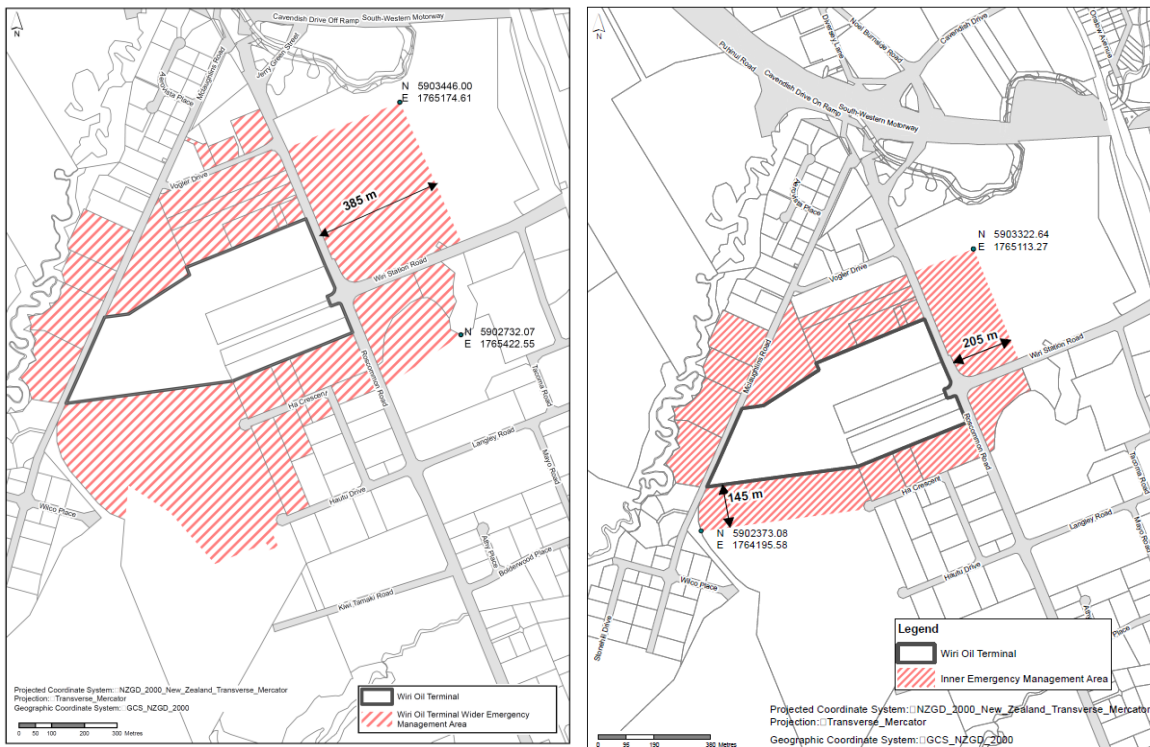


Figure 1 – Wiri Oil Terminal Wider Emergency Management Area (left) and Inner Emergency Area

The emergency management areas also restrict sensitive activities or incompatible land uses, including those generating high populations of people.

Sensitive activities which contain people intensive activities, or those containing vulnerable populations that would require a greater level of assistance in the case of an emergency scenario, are defined as “activities sensitive to hazardous facilities and infrastructure”.¹ Activities sensitive to hazardous facilities and infrastructure are:

- visitor accommodation
- care centres
- hospitals
- healthcare facilities
- educational facilities
- tertiary education facilities
- community facilities

¹ Chapter J – Definitions. AUP.

- marae
- retirement villages
- organised sport and recreation
- entertainment facilities
- dwellings
- boarding houses.

Location of qualifying matter

The locations of the EMA's in the AUP are:

- around the Wiri Oil Terminal, (Maclaughlins Road/Roscommon Road/Puaki Drive, Oil Terminal Road, Wiri)
- along parts of the New Zealand Refining Pipeline
 - linear sections between Maclaughlins Road, Prices Road, and Puhinui Roads)
 - sections within Mangere on land towards coast
 - end of Portage Road and Tussock Avenue
 - end of Cassandra Drive, Peninsula Road
 - Naylor's Drive, and between Jaylo Place and Westney Road
 - Corridor between Forest Hill Road, Waitākere and north through to Auckland region boundary at Topuni (and onwards to Northland).

Effects the qualifying matter seeks to manage

The effects the EMA's manage include:

- risks of adverse effects on activities located in the proximity of existing hazardous facilities and infrastructure
- encroachment of incompatible land uses in proximity to hazardous facilities and infrastructure
- ensuring operation and potential expansion of hazardous facilities/infrastructure is not compromised
- inappropriate activities i.e. activities sensitive to hazardous facilities and infrastructure
- inappropriate development including for new buildings/alterations that increase building platform area/building heights within the inner EMA for Wiri Terminal.

Auckland Council considers that the appropriate zoning to apply is one which includes the MDRS. This is because EMA's are an appropriate method to manage inappropriate development and activities sensitive to hazardous facilities and infrastructure.

Policy 3 of the NPS-UD does not affect any of the EMA's.

Objectives and Policies (existing)

Relevant AUP objectives and policies

The relevant AUP objectives and policies, that support EMA's as a qualifying matter are as shown below:

AUP Chapter	Objective/Policy	Summary of matter addressed
B3 Infrastructure - Ngā pūnaha hanganga, kawekawe me ngā pūngao - Infrastructure, transport and energy [rps]	Objective B.3.2.1(1)	Infrastructure is resilient, effective and efficient
	Objective B.3.2.1(2)	The benefits of infrastructure are recognised
	Objective B3.2.1(3)	Development, operation, maintenance, and upgrading of infrastructure is enabled, while managing adverse effects.
	Objective B3.2.1(4)	The functional and operational needs of infrastructure are recognised.
	Objective B3.2.1(6)	Infrastructure is protected from reverse sensitivity effects
E29 Emergency management areas – Hazardous facilities and infrastructure [rcp/dp]	Objective E29.2(1)	Activity sensitive to hazardous facilities/infrastructure are avoided in EMA's
	Objective E29.2(2)	Use and development of identified hazardous facilities/infrastructure are not unreasonably constrained by establishment/expansion of sensitive or incompatible activities
	Policy E29.3(1)	Identify EMA's around hazardous facilities/infrastructure where this is justified on the basis of a quantitative risk assessment
	Policy E29.3(2)	Manage risk to activities within Wiri Oil Terminal and Wiri LPG Depot to acceptable levels. And manage reverse sensitivity effects on development and operation for both facilities by:

		<p>(a) avoiding establishment of activities sensitive to hazardous facilities/infrastructure</p> <p>(b) limiting establishment or expansion of incompatible activities</p> <p>(c) requiring preparation and implementation of a site emergency plan</p> <p>(d) requiring buildings within Inner EMA to consider how layout reduces risk of harm to people from an emergency event.</p>
	Policy E29.3(3)	Consider the risks to activities sensitive to hazardous facilities and infrastructure within 34 metres of the boundary of Designations 6500 and 6501 (Petroleum Pipeline) where the pipeline is constructed to a “thin wall” specification.
Chapter K – Designations	N/A	<ul style="list-style-type: none"> • Des 9701 – operation, maintenance, upgrading and future expansion of the Wiri Oil Services Terminal and associated facilities • Des 9700 – Wiri to Auckland International Airport Jet Fuel Pipeline • Designation 6501 – Petroleum Pipeline – urban section • Designation 6500 – Petroleum Pipeline – rural section • Designation 9101 – Taupaki to Topuni Gas Pipeline • Designation 9100 – Taupaki to Kaukapakapa Gas Pipeline

It should be noted that it is the requiring authority's designations and any associated conditions attached to those designations that provide for the protection, and management of the land within the boundary of the designation. Chapter E29 has specific references to Designations 6500 and 6501 (petroleum pipeline). Chapters E26 Infrastructure, E27 Transport, and H22 Strategic Transport Corridor Zone of the AUP have references that designations have the potential to also apply.

The management approach in the AUP, to provide for includes through:

- identifying EMA's in the AUP maps
- provisions in Chapter E29 of the AUP
- provisions for designations in Chapter K of the AUP.

As stated above, the EMA objectives, policies and standards control the following effects:

- risks of adverse effects on activities located in the proximity of existing hazardous facilities and infrastructure
- reverse sensitivity effects
- encroachment of incompatible land uses in proximity to hazardous facilities and infrastructure
- ensuring operation and potential expansion of hazardous facilities/infrastructure is not compromised
- inappropriate activities i.e. activities sensitive to hazardous facilities and infrastructure
- inappropriate development including for new buildings/alterations that increase building platform area/building heights within the inner EMA for Wiri Terminal.

The activity table specifies the activity status of land use and development activities located within the emergency management areas for the Wiri Oil Terminal and the Wiri LPG Depot. And do not apply to the high pressure refinery to Auckland petroleum pipeline.

Activities sensitive to hazardous facilities and infrastructure have a prohibited activity status. Development for new buildings, or alterations to buildings that increase the building platform area or height, within the Inner EMA for the Wiri Oil Terminal or Wiri LPG Depot are controlled activities.

The matters of control relate to new buildings that increase the building platform area/building height within the Inner EMA for the Wiri Oil Terminal or Wiri LPG Depot. And is limited to building layout and mitigation measures for risk management purposes. The assessment criteria considered for controlled activities include:

- the extent to which design of buildings/alterations to buildings ensures safety of occupants from an emergency event. Design matters that should be considered are:
 - layout of buildings should maximise separation of higher occupancy areas e.g. offices from the hazardous facility
 - location of glazing in relation to hazardous facility and where cannot locate windows away from hazardous facility, then consideration of mitigation

measures e.g. strengthened glass/protective films to reduce risk of harm to people

- location of emergency egress points to facilitate movement away from hazard
- whether an application includes evidence of consultation with the operator of the hazardous facility and they are aware of proximate activities and potential reverse sensitivity effects.

Where more than one Auckland-wide or zone rule applies to the same activity, then the most restrictive status applies.

Standard E29.6.1 Site Emergency Management Plan (SEMP) applies to all activities located within the wider EMA for the Wiri Oil Terminal and Wiri LPG Depot. The standard states that a Site Emergency Plan must be prepared and completed in accordance with the template set out in E29.9.1 Site Emergency Management Plan template (non-statutory). Or otherwise prepared and completed by a suitably qualified expert e.g. a fire safety engineer. The SEMP must be implemented and submitted to Auckland Council at least 10 working days prior to the proposed date of commencing any new activity or any change of activity.

Amendments required to district plan objectives and policies

No amendments are required to AUP objectives, policies or rules in response to the MDRS.

Auckland Council considers that the appropriate zoning to apply is one which includes the MDRS. This is because EMA's are an appropriate method to manage inappropriate development and activities sensitive to hazardous facilities and infrastructure.

Policy 3 of the NPS-UD does not affect any of the EMA's.

Development of Options

As set above, EMA's are an existing qualifying matter in terms of sections 77K and 77Q of the RMA, as the identified hazardous facilities and infrastructure within EMA's:

- are a matter required for the purpose of ensuring the safe and efficient operation of nationally significant infrastructure² (as provided for in the definition of 'nationally significant infrastructure')
- are currently in the AUP and continue to have effect as part of an operative plan.

A number of options have been considered in regard to the draft Section 32 assessment of the EMA's.

The options for MDRS include:

1. Do not apply EMA's as a qualifying matter i.e. remove EMA's and only apply MDRS
2. Apply MDRS in a modified form to support EMA provisions of the AUP
3. Apply EMA's as a qualifying matter in full i.e. retain the current EMA provisions and apply a zone which includes MDRS.

² Resource Management Act, ss 77I(e) and 77O(e).

Option 3 is the preferred option, for the application of the MDRS. Therefore the provisions of the MDRS will be applied in full relying on EMA provisions (and designations where relevant) to manage inappropriate development and activities sensitive to hazardous facilities and infrastructure.

There are no EMA's within locations subject to Policy 3 of the NPS-UD.

Consequences for development potential

As identified above in the Issues section, EMA's are in specific locations within Auckland's urban environment. The majority of the EMA's are not in relevant residential zones, with approximately 65 properties in the Mangere area, out of approximately 400 properties affected by the EMA's, being in relevant residential zones including Residential – Mixed Housing Urban, Residential – Mixed Housing Suburban, and Residential – Single House.

The remaining properties are zoned Business – Heavy Industry (Manukau/Wiri), Business – Light Industry, Open Space – Recreation, and Open Space – Information Recreation (Manukau/Manurewa), Residential Large Lot (Mangere), Rural – Waitākere Foothills, Rural – Countryside Living, and Rural – Rural Production, (Mangere, Waitākere and Rodney Local Board area).

While the pipelines themselves are in the road, or non-residential urban zones, the width of the EMA's can affect full properties (in the case of the Wiri Oil Terminal and Wiri LPG Depot) or parts of properties. In some cases, development may be able to occur if it is either in accordance with Chapter 29 or if only part of a property is affected by the EMA.

Therefore, it is challenging to provide a description for a typical site (or sites). And the consequence for development potential as provided for by the permitted level of development of the MDRS for the reason provided in the above paragraph. But it is likely to have a minor effect on development potential within the relevant residential zones affected by EMA's.

Evaluation of options

Qualifying matter	Status Quo	Option 2	Option 3
Costs of applying the QM – broader social, economic, environmental, cultural	Low/medium cost Applying MDRS may enable the density sought. However, there is the potential to increase health and safety risk of vulnerable persons or activities sensitive to hazardous facilities and	Low/medium cost Applying an amended MDRS may still not enable the development capacity. However, it would potentially decrease the	Low cost Emergency Management Areas are identified in the AUP. These have been considered through the AUP process as being an appropriate method to reduce health and safety risk during an emergency. And therefore contribute to

	infrastructure during an emergency.	health and safety risk during an emergency.	a well-functioning environment. The EMA's are in specific locations with the majority not affecting relevant residential zones.
Costs of applying QM – housing supply / capacity	Low cost EMA's within relevant residential zones do not have a large effect on housing supply/capacity. The EMA's are in specific locations in Auckland and only affect a relatively small number of properties.	Low cost The EMA's are in specific locations with the majority not affecting relevant residential zones. Therefore the amended MDRS would be limited to a small number of properties in specific locations affected by the EMA's.	Low cost The EMA's are in specific locations with the majority not affecting relevant residential zones.
Benefits of the QM – broader social, economic, environmental, cultural	Low benefit Applying MDRS and Policy 3 in full has the potential to increase health and safety risk of vulnerable persons or activities sensitive to hazardous facilities and infrastructure during an emergency.	High benefit The EMA's would likely be protected from inappropriate subdivision, development, and use. Therefore there would a positive effect on the health and wellbeing of people and communities.	High benefit Applying the EMA's in full by retaining the existing AUP provisions would ensure that EMA's are protected from inappropriate subdivision, development, and use. Therefore there would a positive effect on the health and wellbeing of people and communities.

Risk of acting or not acting

Section 32(2)(c) of the RMA requires this evaluation to assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions. The information about EMA's as a qualifying matter, including information about the purpose of EMA's, and the location of EMA's is already provided in the AUP. It is considered that this information is certain and sufficient as EMA's have been through a thorough statutory process to be included in the AUP.

Overall conclusion

In accordance with the MDRS and NPS-UD, the EMA's are a qualifying matter for the purpose of ensuring the safe and efficient operation of critical infrastructure (Wiri Oil Terminal, Wiri LPG Depot, and high pressure Refinery to Auckland petroleum pipeline). And contributes to a well-functioning urban environment that enables all people and communities

to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future.

The impact of the qualifying matter on the level of development enabled by the MDRS are in specific locations. The majority of the EMA's do not apply to relevant residential zones, with approximately 65 properties in the Mangere area being within a relevant residential zone and the activity table does not apply to these locations. Therefore, it is likely to have a minor effect on development potential.

Information Used

1. The following reports, documents, evidence, and plan versions were used to help the development of the plan change and assess the EMA's as a qualifying matter.

Name of document, report, plan	How did it inform the development of the plan change
Auckland Unitary Plan (Operative in Part) 2016	Chapter E29 provides for the activities associated with hazardous facilities/infrastructure and manages the risk of health and safety to activities sensitive to hazardous facilities/infrastructure. The AUP maps show the location of the EMA's.
AUP Independent Hearing Panel Evidence and recommendations for Topic O42 Infrastructure.	Supported inclusion of the EMA's as a method to reduce risk to activities sensitive to hazardous facilities and infrastructure particularly during an emergency.

Consultation

Schedule 1 of the Act sets out the relevant consultation requirements. Mana whenua have been engaged in the preparation of the IPI plan change at various stages in the process as required by Schedule 1 of the Act.

The Council provided an opportunity to the Auckland community to comment on its 'preliminary response' proposals during the period April 19 to May 9, 2022. The consultation documentation included Information #6: Qualifying matters (Part 1).

This information sheet described what a qualifying matter is and which qualifying matters were specifically identified by the government in the NPS-UD and the RMA. And that these specifically identified qualifying matters may make the MDRS and policy 3 less enabling of development in relation to an area within a relevant residential zone only to the extent necessary to accommodate 1 or more of the listed qualifying matters. The government-specified qualifying matters include 771(e) and 770(e) 'a matter required for the purpose of ensuring the safe or efficient operation of nationally significant infrastructure'.

The information sheet also provided a corresponding list of AUP provisions which relate to the specifically identified qualifying matters which includes E29 Emergency Management Areas.