

# Proposed Plan Change 78 (PC78) to the Auckland Unitary Plan (Operative in Part)

## Stormwater Disposal Constraints

**Section 32 and section 77J and 77L new (other matter) qualifying matter  
EVALUATION REPORT for qualifying matter 77I(j)**

*(j) any other matter that makes higher density, as provided for by the MDRS or policy 3, inappropriate in an area, but only if section 77L is satisfied.*

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## Executive Summary

Healthy Waters has identified that there are 511<sup>1</sup> sites in the central isthmus of Auckland that are subject to limitations regarding the disposal of stormwater for which there is no ability to connect to the public stormwater network and where ground soakage capacities are constrained.

The inability for new dwellings to adequately provide for the disposal of stormwater is a significant resource management issue and does not align with the Medium Density Residential Standards ("**MDRS**") Objective 1 (as set out in Schedule 3A of the Resource Management Act 1991 ("**Act**") and Objective 1 of the National Policy Statement for Urban Development ("**NPS-UD**"). Both objectives emphasise the importance of 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 safe and efficient provision of stormwater disposal services are a critical component of a well-functioning urban environment.

Most of the sites identified as being subject to stormwater disposal constraints are currently zoned Single House zone in the AUP. The Auckland Regional Policy Statement directs low intensity development to urban areas that are subject to environmental constraints. This is one of the reasons for the single house zoning and its application to sites affected by long term stormwater constraints. Through the application of the MDRS, greater density development will be enabled on these sites. This is challenging in the context of the stormwater infrastructure capacity issues that have been identified.

It has been determined that the most effective and efficient method for managing the potential adverse effects of further residential development of these sites is for the specific sites (subject to stormwater disposal constraints) to be identified in the AUP through a mapping layer, and for corresponding rules to be included in the AUP that require a restricted discretionary activity consent for a proposal that will result in more than one dwelling on the site. The combination of these methods is expected to manage potential adverse effects from further intensification of the identified sites.

Inclusion of these provisions in the AUP will ensure that future purchasers are aware of the stormwater servicing constraints of the site, and of the restrictions on residential intensification of the site. The proposed provisions will require information about the ability to manage the stormwater disposal impacts of the proposed development to be submitted with any application for two or more dwellings on an identified site. The provisions will also provide council with the ability to decline resource consent for additional dwellings in cases where stormwater disposal is not able to be appropriately managed.

The inclusion of the Stormwater Disposal Constraints qualifying matter in the AUP is the most appropriate way to achieve the purpose of the Act, which is to promote the sustainable management of natural and physical resources. This is because:

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<sup>1</sup> This figure excludes sites affected by the Light Rail Corridor.

- The qualifying matter seeks to ensure that additional dwellings are not constructed on sites where there is no ability to adequately provide for stormwater disposal.
- Increases in uncontrolled nuisance stormwater flows onto private and public property are avoided.

If the AUP gave effect to and inserted the MDRS at the sites identified as being subject to stormwater servicing constraints this would likely result in significant adverse effects on the environment.

## Introduction

This report is prepared as part of the evaluation required by section 32 and sections 77J and 77L of the Resource Management Act 1991 ('**the Act**') for proposed Plan Change 78 (**PPC78**) to the Auckland Unitary Plan (Operative in Part) (**AUP**).

The background to and objectives of PPC78 are discussed in the overview report, as is the purpose and requirements for what must be included in this section 32 (as amended by sections 77J and 77L) evaluation. In particular:

- Section 77J sets out additional evaluation requirements for PPC78 provisions which incorporate the MDRS and give effect to the NPS-UD in residential zones.
- Section 77L sets out additional evaluation requirements for PPC78 for a qualifying matter under section 77I(j).

This report discusses the implications of Stormwater Disposal Constraints being a qualifying matter in applying the medium density residential standards ('**MDRS**') as specified in Schedule 3A of the Act and policy 3 of the NPS-UD to relevant residential zones. This report also evaluates the provisions which have been included in PPC78 relating to Stormwater Disposal Constraints.

In summary Stormwater Disposal Constraints is a necessary qualifying matter to be included in PPC78 to justify limiting further residential intensification than anticipated by the MDRS and Policy 3 NPS-UD for some sites in Auckland. Restrictions on intensification need to be in place on sites with identified servicing constraints. This is because there are sites within Auckland where stormwater disposal is constrained by the absence of any public stormwater network and by poor ground soakage capacity.

It is important to recognise that housing does not occur in a vacuum – it needs to be connected and serviced. Therefore, enabling further development as anticipated through MDRS as a permitted activity on individual sites where a lower intensity of development is anticipated through the current zoning in the AUP will create significant issues from a stormwater disposal perspective and may result in perverse outcomes that are not consistent with overall the purpose of the Act.

What is proposed in PPC78 addresses the issue of stormwater disposal constraints up front rather than at a later part of the process when significant cost may have been expended. This is considered to be the most efficient and effective means of preventing or minimising the potential adverse effects on the environment which will result as a consequence of stormwater disposal constraints.

For the purposes of this report, it is noted that Stormwater Disposal Constraints is not an existing qualifying matter that is operative in the AUP when PPC78 is notified (section 77K). Rather, it is proposed that Stormwater Disposal Constraints is a new qualifying matter under section 77I(j), being any other matter that makes higher density, as provided for by the MDRS or policy 3, inappropriate on a site. The Council may make the MDRS and the relevant building height or density requirements under policy 3 less enabling in relation to a site within a relevant residential zone only to the extent necessary to accommodate one or more of the qualifying matters listed in 77I.

## Integrated Evaluation for New Qualifying Matters

For the purposes of PPC78, a section 32 evaluation of Stormwater Disposal Constraints as a new qualifying matter, has been undertaken in an integrated way that combines sections 32 and 77J / 77L requirements. The report follows the evaluation approach described in the table below.

Preparation of this report has involved the following:

- Watercare Map No: PR15098\_04b; Date: 16 February 2017; 'Watercare Services Ltd, Current Drainage System Types 2016'; and Watercare 'Metadata – Current Drainage System Layer – December 2016'.
- Meola Stormwater Trunk and Network Options Assessment, Shallow Trunk Options and Feasibility Report – Draft, 22 NOVEMBER 2013, Prepared for Auckland Council by URS, SKM & Jacobs Associates.
- Central Auckland Network Optimisation Programme, Meola Catchment Options Report, Prepared for Watercare and Auckland Council (Healthy Waters) by GHD, June 2017.
- Engineering technical input from Maree Gleeson, Gleeson & Associates.

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

As required through the RMA this s32 report will continue to be refined in response to any submissions provided to the council, and in response to any new information received.

**Table 1 Integrated Approach**

Standard sec 32 steps	Plus sec 77J / 77L steps for new qualifying matters
Issue Define the problem – provide overview/summary providing an analysis of the qualifying matter	Sec 77J and 77L Describe the qualifying matter. Identify by location (for example, by mapping) where the new qualifying matter applies. Identify the specific characteristic that makes the level of development provided by the MDRS (as specified in Schedule 3A or as provided for by policy 3) inappropriate in the area.
Identify and discuss objectives / outcomes	Sec 77J and 77L Identify relevant RPS objectives and policies. Describe why the Council considers that 1 or more existing qualifying matters apply to the identified areas and why the qualifying matter is necessary. Justify why that characteristic makes that level of development inappropriate in light of the national significance of urban development and the objectives of the NPS-UD.

Standard sec 32 steps	Plus sec 77J / 77L steps for new qualifying matters
Identify and screen response options	<p>Sec 77J and 77L</p> <p>Consider a range of alternative density standards or methods for these areas having considered the particular MDRS standards and/or Policy 3 intensification requirements.</p> <p>Site by site analysis that evaluates the specific characteristic on a site-specific basis to determine the geographic area where intensification needs to be compatible with the specific matter.</p>
Collect information on the selected option(s)	<p>Sec 77J and 77L</p> <p>Assess the impact that limiting development capacity, building heights or density as relevant will have on the provision of development capacity.</p> <p>Site by site analysis that evaluates an appropriate range of options to achieve the greatest heights and densities permitted by the MDRS (as specified in Schedule 3A) or as provided for by policy 3 while managing the specific characteristics.</p>
Evaluate options – costs for housing capacity	<p>Sec 77J and 77L</p> <p>Assess the costs and broader impacts of imposing the limits on development capacity.</p>
Evaluate option(s) - environmental, social, economic, cultural benefits and costs	<p>Sec 77J and 77L</p> <p>Provide an 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>
Selected method / approach	<p>Sec 77J and 77L</p> <p>Describe how the preferred approach to implementing the qualifying manner is limited to only those modifications necessary to accommodate the qualifying matter; and how the qualifying matter is applied.</p>
Overall judgement as to the better option (taking into account risks of acting or not acting)	<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

### **Stormwater Disposal Constraints as a Qualifying Matter (s771(j))**

The qualifying matter relied on to enable Stormwater Disposal Constraints to be accommodated in the Auckland Council's intensification planning instrument is section 771(j) of the RMA. This provides that "any other matter that makes higher density, as provided for by the MDRS or policy 3 inappropriate in an area" is a qualifying matter provided that section 77L is satisfied. This evaluation report will demonstrate how the requirements of section 77L have been satisfied.

The key reason for including Stormwater Disposal Constraints as a qualifying matter for PPC78 is that there are 511 sites identified within urban Auckland where there are currently stormwater disposal constraints. This encompasses sites where no public stormwater network exists, and limited soakage capacity occurs due to historical and environmental factors which therefore cannot accommodate the higher density proposed for residential zones under the Resource Management (Enabling Housing Supply and Other Matters) Amendments Act 2021. If intensification of these sites occurs as envisaged by the MDRS, this could result in significant risks in terms of effects on the environment and on the wellbeing of people and communities. These risks are explained in more detail in the following section.

### **Sites Identified as Subject to Stormwater Disposal Constraints**

The Stormwater Disposal Constraints qualifying matter will apply to sites where the following significant stormwater disposal constraints apply:

- there is no available public stormwater network; and
- low ground soakage capacity exists.

There are approximately 511 sites currently accurately identified as subject to these constraints located in:

- Mt Eden (being an area roughly in the vicinity of the intersection of Mt Eden and Balmoral Roads, and bounded by Manukau Road to the east, Epsom Ave to the north, Matipo Street to the west, and Gorrie Avenue to the south).

The sites in this constrained area are identified on the map in Attachment Two.

### **How PPC78 Proposes to Accommodate Stormwater Disposal Constraints as a Qualifying Matter**

The Stormwater Disposal Constraints qualifying matter will apply to certain sites in the following residential zones in the circumstances described below:

- 1) To sites in the former Single House Zone (proposed to be renamed Low Density Zone) where a site is identified on the planning maps as being subject to the Infrastructure – Stormwater Disposal Constraints Control.



- 2) To sites up zoned from the former Single House to the amended Mixed Housing Urban Zone where a site is identified on the planning maps as being subject to the Infrastructure – Stormwater Disposal Constraints Control.
- 3) To sites currently zoned Terrace Housing and Apartment Buildings Zone where a site is identified on the planning maps as being subject to the Infrastructure – Stormwater Disposal Constraints Control<sup>2</sup>.

The Stormwater Disposal Constraints qualifying matter relating to subdivision for dwellings in residential zones will apply to the following residential zones in the circumstances described below:

- 1) To any residential zoned sites up zoned from the former Single House to the amended Mixed Housing Urban or amended Terrace Housing and Apartment Buildings Zone where a site is identified on the planning maps as being subject to the Infrastructure – Stormwater Disposal Constraints Control.
- 2) To sites currently zoned Terrace Housing and Apartment Buildings Zone where a site is identified on the planning maps as being subject to the Infrastructure – Stormwater Disposal Constraints Control<sup>3</sup>.

The qualifying matter related provisions have been designed to retain as a starting point the current AUP as at May 2022 density provisions relating to the number of dwellings permitted on a site as of right. It looks to retain where possible the current subdivision provisions for residential zones applied to those sites.

Where the Infrastructure – Stormwater Disposal Constraints Control is in place, any proposal for more than one new dwelling on an identified site will require a resource consent and the application will be classified as a restricted discretionary activity. The criteria to be considered when assessing an application are:

- 1) Whether there is the ability to adequately dispose of stormwater from the site via a connection to the public stormwater network.
- 2) Whether stormwater from the site can be disposed of in accordance with the current version of Guideline Document 007 Stormwater Soakage and Groundwater Recharge in the Auckland Region, and the Auckland Stormwater Code of Practice.

Subdivision for a MDRS development requires resource consent under Clause 3 of Schedule 3A of the RMA as a controlled activity. On sites identified on the planning maps as being subject to the Infrastructure – Stormwater Disposal Constraints Control it is proposed that resource consent as a restricted discretionary activity is required. The criteria to be considered when assessing an application are:

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<sup>2</sup> The Stormwater Disposal Constraints qualifying matter is also intended to apply to any sites up zoned from the former Single House to the amended Terrace Housing and Apartment Buildings (THAB) Zone – however no new amended THAB zone sites are currently proposed within the extent of the Stormwater Disposal Constraints Control.

<sup>3</sup> Similarly, regarding subdivision, the Stormwater Disposal Constraints qualifying matter is intended to apply to any new amended Terrace Housing and Apartment Buildings Zone sites – however no new THAB zone sites are currently proposed within the extent of the Stormwater Disposal Constraints Control.

- 1) Whether there is the ability to adequately dispose of stormwater from the site via a connection to the public stormwater network.
- 2) Whether stormwater from the site can be disposed of in accordance with the current version of Guideline Document 007 Stormwater Soakage and Groundwater Recharge in the Auckland Region, and the Auckland Stormwater Code of Practice.

## **Consequences of Not Including Provisions to Manage Stormwater Disposal Constraints**

If the above-mentioned provisions relating to controlling development for sites where Stormwater Disposal Constraints are present and not included in the AUP and are not considered as a qualifying matter pursuant to section 771(j), the application of the MDRS means that identified sites could be developed with three dwellings as a 'permitted' activity. This could lead to significant health and safety and environmental effects, in particular:

- Uncontrolled nuisance stormwater discharges, increased frequency and volume of overland flows, and increased frequency and volume of flood flows within subject and neighbouring sites, on both private and public property.

## **Removal of Stormwater Disposal Constraints in the Future**

For the sites identified as having stormwater disposal constraints, an alternative infrastructure solution is not feasible and is not part of Healthy Water's investment planning in the short, or medium or long term. This is because investigations into the provision of a public infrastructure solution for the sites in question have determined the costs to be prohibitive – in the order of over \$1.3B – with low overall benefit, if indeed a solution is even technically feasible on account of the geological and hydrological characteristics of these sites and the surrounding stormwater and stream network.

## **Objectives and Policies**

Housing does not occur in a vacuum – it needs to be connected and serviced. This is critical to ensure well-functioning urban environments.

There have been strong policy directives in place to promote more intensive urban development in Auckland for some time. The National Policy Statement on Urban Development Capacity 2016 also set out the objectives and policies for providing development capacity under the RMA. While there is a policy framework which is incredibly enabling, this must be carried out in a way that enables people and communities to provide for the health and safety as directed by s5 of the RMA. The relevant policies for the purposes of the section 32 analysis are:

- MDRS Objective 1 and Policy 4 (as set out in Schedule 3A) of the RMA
- the NPSUD Objective 1 and 6
- RPS Objective B2.2.1.(1) and Policies B2.4.2.(4) and (6)

## **Objectives**

### *Objective 1 of the NPS-UD / Objective 1 of the MDRS*

Both objectives support a well-functioning urban environment that enables people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and in the future.

The inability for increased residential density to adequately dispose of stormwater to a reticulated network or to soakage is a significant resource management issue and does not align with the MDRS Objective 1 (as set out in Schedule 3A) of the Act and the NPSUD Objective 1.

With limitations on the ability to dispose of stormwater from new higher density development and potential to impact on the subject and surrounding sites in both public and private ownership, an urban environment cannot be considered to be well functioning, and people and communities will not be enabled to provide for their social, economic, and cultural wellbeing, and in particular for their health and safety in an equitable manner.

Objective 6 of the NPSUD requires local authority decisions on urban development that affect urban environments to be integrated with infrastructure planning and funding decisions. For the sites identified as having stormwater disposal constraints, an alternative infrastructure solution is not feasible and is not part of Healthy Water's investment planning in the short, or medium or long term. This is because investigations into the provision of stormwater connections to the sites in question have determined the costs to be prohibitive if indeed a solution is even technically feasible on account of the geological and hydrological characteristics of these sites. It would not be appropriate to make decisions to increase the number of dwellings that as of right can be constructed on a site or sites created without the residents of the new dwellings having adequate stormwater disposal solutions. This would be inconsistent with Objective 6 of the NPSUD and would have perverse environmental outcomes which are inconsistent with the overall purpose of the Act.

## **Policies**

### *Policy 4 of the MDRS*

Without access to adequate stormwater services housing cannot be designed to meet the day-to-day needs of residents (MDRS Policy 4).

### *Policies B2.4.2.(4) and (6) of the RPS*

The RPS has a strong focus on the integration of development with the provision of appropriate infrastructure and the efficient provision of infrastructure. For example, RPS Policy B2.4.2.(4) recognises that lower residential intensity is appropriate in areas that are subject to high environmental constraints, and B2.4.2.(6) which also relates to residential intensification requires council to ensure development is adequately serviced by existing infrastructure or is provided with infrastructure prior to or at the same time as residential intensification.

The MDRS and NPSUD will enable residential intensification of sites with existing stormwater disposal constraints that will not be removed in the expected life of the current

AUP which under s79 of the RMA requires provisions to be reviewed every 10 years. This will not be consistent with direction set by the RPS and in particular Policy B2.4.2.(6).

The Stormwater Disposal Constraints qualifying matter is designed to ensure intensification does not occur on sites with current disposal constraints unless the constraint can be adequately overcome. The qualifying matter will ensure:

- a well-functioning urban environment is maintained for sites with identified stormwater disposal constraints
- people and communities in these sites can continue to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future
- intensification is adequately serviced by Stormwater infrastructure

The Stormwater Disposal Constraints qualifying matter will not unnecessarily constrain intensification in urban Auckland as it is applied to 511 sites (a very small number when compared to the Auckland region as a whole). Neither will it frustrate the outcomes to be achieved by the MDRS and the NPSUD because:

- it only applies to <0.14% of the total Auckland Region Healthy Waters serviced area
- there is the ability to grant resource consent applications for constrained sites as long as the applicant can demonstrate that the sites can be provided with adequate stormwater disposal.

## **Development of Options**

### **Dwellings**

Under s77L, a site specific analysis is required that evaluates an appropriate range of options to achieve the greatest heights and densities permitted by the MDRS or as provided for by policy 3, while managing the specific characteristics.

Sites with no existing connection to a stormwater network and with poor soakage capacity and that are therefore constrained have been identified. As noted above there are 511 sites affected.

The three options that have been evaluated are:

- Status quo – densities currently provided for in the AUP residential zones
- MDRS – densities provided for under the MDRS
- Stormwater Disposal Constraints qualifying matter – provisions to be included in the residential zones under the Stormwater Disposal Constraints qualifying matter.

The following table provides a comparison of the activity status for dwellings as proposed by the Stormwater Disposal Constraints qualifying matter with the current AUP activity status and that proposed under the MDRS.

**Table 2 Comparison of the Activity Status for Dwellings**

<b>Zone – Current AUP</b>	<b>Activity Status – Current AUP</b>	<b>Activity Status – MDRS</b>	<b>Activity Status – Stormwater Disposal Constraints QM</b>
Single House	Permitted – one dwelling per site	Permitted – up to three dwellings per site	Sites proposed to be in the Low Density zone Permitted – one dwelling per site Restricted Discretionary – more than one dwelling per site
Mixed Housing Suburban	Permitted – up to three dwellings per site	Permitted – up to three dwellings per site	Where a site has been up zoned from the former Single House to the amended Mixed Housing Urban Permitted – one dwelling per site Restricted Discretionary – more than one dwelling per site
Mixed Housing Urban	Permitted – up to three dwellings per site	Permitted – up to three dwellings per site	Where a site has been up zoned from the former Single House to the amended Mixed Housing Urban Permitted – one dwelling per site Restricted Discretionary – more than one dwelling per site
Terrace Housing and Apartment Buildings Zone (THAB)	Restricted Discretionary – dwellings	Permitted – up to three dwellings per site	Sites currently zoned THAB (and where a site has been up zoned from the former Single House to the amended THAB) <sup>4</sup> Permitted – one dwelling per site

<sup>4</sup> No new THAB zoned sites have currently been identified within the Stormwater Disposal Constraints Control extent.

Zone – Current AUP	Activity Status – Current AUP	Activity Status – MDRS	Activity Status – Stormwater Disposal Constraints QM
			Restricted Discretionary – more than one dwelling per site

Alternative methods that were considered when developing the Stormwater Disposal Constraints qualifying matter are as follows:

- Utilisation of the Regional Plan provisions within Chapter E8 of the AUP (Rules E8.4.1 – (A3) & (A8) and Permitted Standard E8.6.1(6))
- Reliance on the Building Consent process
- Attaching Consent Notices to the titles of affected properties

The reasons why these alternative methods were not adopted are set out in the table below.

**Table 3 Alternative Methods**

Alternative Method	Reasons for Not Adopting
AUP Chapter E8 Regional Plan provisions (Rules E8.4.1 – (A3) & (A8) and Permitted Standard E8.6.1(6))	<p>Landowners/developers and consenting staff alike when determining applicable rules are not anticipating that regional provisions with a 1000m<sup>2</sup> threshold have relevance to single/multi lot brownfield development.</p> <p>E8 provides for discharge from sites under 1000m<sup>2</sup> as a Permitted Activity outside of a resource consent process, with significant engineering detail and assessment required to demonstrate and confirm compliance with the Permitted Standard.</p> <p>The provisions in E8 do not provide direction as to how to achieve compliance with soakage requirements via reference to GD07 and SWCoP.</p> <p>Amendment to regional plan chapters of the AUP is beyond the scope of Plan Change 78 to implement the provisions of the NPSUD and introduce the MDRS.</p>
Reliance on the Building Consent process	As is occurring as the fall-back position currently in practice, presenting significant risk to landowners/developers unaware of the constraints on these sites and the expensive engineering solutions required to enable development at an exceedingly late point in the development process.

Alternative Method	Reasons for Not Adopting
Attaching Consent Notices to the titles of affected properties	Expensive and onerous to apply to not only these sites but others that exist across the region once this information is sufficiently proven, and to remove in the future should constraints be resolved.

## Subdivision

The three options that have been evaluated are:

- Status quo – standards and activity status currently provided for in the AUP for subdivision in residential zones
- MDRS – the activity status and requirements provided for under Schedule 3A clauses 3 and 8
- Stormwater Disposal Constraints qualifying matter – provisions included in E38 Subdivision under the Stormwater Disposal Constraints qualifying matter

The following table provides a comparison of the activity status for subdivision for MDRS as proposed by the Stormwater Disposal Constraints qualifying matter with the current AUP activity status and that proposed under clauses 3 and 8.

**Table 4 Comparison of the Activity Status for Subdivision**

Zone – Current AUP	Activity Status – Current AUP	Activity Status – MDRS clauses 3 and 8	Activity Status – Stormwater Disposal Constraints QM
Subdivision of vacant sites in all residential zones	Restricted Discretionary Activity with standards related to shape factors, access and net site area and location specific standards	Not enabled except under clause 8(b)	Where a site is located in an area identified on the planning maps as being subject to the Infrastructure – Stormwater Constraints Control:  Restricted Discretionary Activity consent is required with assessment against specific criteria related to stormwater infrastructure disposal capacity
Subdivision around existing buildings or approved land use	Restricted Discretionary Activity with standards related to shape factors,	Controlled activity subject to – clause 8(a) the subdivision not increasing the degree of any non-	Where a site is located in an area identified on the planning maps as being subject to the

Zone – Current AUP	Activity Status – Current AUP	Activity Status – MDRS clauses 3 and 8	Activity Status – Stormwater Disposal Constraints QM
	access and net site area and location specific standards	<p>compliance with the density standards in the district plan (once incorporated as required by section 77G) or land use consent has been granted; and no vacant allotments are created</p> <p>Clause 8(b) any allotment with no existing residential unit, where a subdivision application is accompanied by a land use application that will be determined concurrently if the applicant for the resource consent can demonstrate that –</p> <p>it is practicable to construct on every allotment within the proposed subdivision, as a permitted activity, a residential unit; and each residential unit complies with the density standards in the district plan (once incorporated as required by section 77G); and no vacant allotments are created</p>	<p>Infrastructure – Stormwater Constraints Control:</p> <p>Restricted Discretionary Activity consent is required with assessment against specific criteria related to stormwater infrastructure disposal capacity</p>

Alternative methods that were considered when developing the Stormwater Disposal Constraints qualifying matter as it relates to subdivision are as follows:

- Make no change and rely on the AUP and Clause 3 and 8 of Schedule 3A

The reasons why this alternative method was not adopted are set out in the table below.



**Table 1 Comparison of Alternatives to Subdivision Consent**

Alternative Method	Reasons for Not Adopting
Make no change and rely on the AUP and Clause 3 and 8 of Schedule 3A	Creating stormwater nuisance and flooding impacts for subject and surrounding sites as there will be no ability to manage the number of sites with new dwellings to ensure adequate stormwater disposal can be accommodated/provided for.

## Consequences for Development Potential

There are 511<sup>5</sup> sites subject to the Stormwater Disposal Control.

## Regulatory Evaluation

This section provides an evaluation of the Stormwater Disposal Constraints qualifying matter in terms of relevant legislation and national planning instruments. The objective and policies section above include an evaluation of the qualifying matters against the relevant objectives and policies of the NPSUD and the MDRS.

### Section 32(1)(a)

The inclusion of the Stormwater Disposal Constraints qualifying matter in the AUP is the most appropriate way to achieve the purpose of the Act when compared with the AUP giving effect to Policy 3 of the NPSUD and the insertion of the MDRS in the AUP. This is because:

- The qualifying matter seeks to ensure that additional dwellings are not constructed on sites unless there is the ability to adequately dispose of stormwater from the additional development. This is because of effects on both the occupants of the new dwellings and existing residents.
- Increasing the density of residential development without being able to adequately dispose of stormwater will not enable people and communities to provide for their social, economic, and cultural well-being and for their health and safety and is not consistent with the sustainable management of resources.
- Increasing housing density on sites with stormwater disposal constraints could result in uncontrolled nuisance and overland stormwater flows onto and flooding of private and public property that would not enable people and communities to provide for their social, economic, and cultural well-being and for their health and safety.

## National Policy Statement for Freshwater Management 2020

If the Stormwater Disposal Constraints qualifying matter is not accommodated in the PPC78 and intensification as provided for by the MDRS occurs on constrained sites without assessment, the consequential environmental effects have the potential to be inconsistent with the outcomes sought by the National Policy Statement for Freshwater Management

<sup>5</sup> Excluding those in the Light Rail Corridor.

**(NPSFM)**. As set out above, increasing housing density on sites with Stormwater Disposal Constraints could result in uncontrolled nuisance stormwater discharges and increases in hazardous overland flows and flooding of subject and neighbouring sites. This would be inconsistent with the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future:

*The objective of this National Policy Statement is to ensure that natural and physical resources are managed in a way that prioritises:*

- (a) first, the health and well-being of water bodies and freshwater ecosystems*
- (b) second, the health needs of people (such as drinking water)*
- (c) third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.*

## Evaluation of Options

The evaluation of options is presented in Table 6 below.

**Table 6 Evaluation of Options**

Qualifying Matter	Status Quo (Not Impose New or Additional QM)	MDRS and NPSUD Policy 3	Stormwater Disposal Constraints QM
<b>Costs</b>			
<b>Costs Housing Supply / Capacity</b>	<ul style="list-style-type: none"> <li>• Many of the 511 sites identified with constraints are unlikely to be further developed as they are in the Single House Zone currently and there is already one dwelling on the site. This is unless the relevant site is of sufficient size to be subdivided or unless enough land is aggregated to enable subdivision.</li> <li>• Other sites in the THAB could be developed but only if they have a resource consent.</li> <li>• Additional housing supply is not provided as directed by the Government.</li> </ul>	<ul style="list-style-type: none"> <li>• The costs in terms of housing supply / capacity would be that there may be some sites which are developed for residential use, that may not be able to dispose of stormwater as there is no stormwater connection available and ground infiltration capacity is low.</li> <li>• This could mean that buildings are not able to be occupied if they have been built or developers have to provide alternative solutions.</li> </ul>	<ul style="list-style-type: none"> <li>• No change from the status quo in terms of needing a resource consent for sites previously in the Single House Zone or THAB. However, the absence of a guarantee that a site or new dwelling can connect to the stormwater network or otherwise achieve an on-site solution may mean a 3405 reduction in the number of dwellings potentially provided for under the MDRS and NPSUD Policy 3 scenario of the 511 sites subject to constraints<sup>6</sup>.</li> </ul>

<sup>6</sup> Given the sizes of sites currently zoned there is a theoretical baseline of 1257 dwellings able to be developed under the Status Quo and a maximum yield under the MDRS/Policy 3 of 4662 dwellings, should no other Qualifying Matters apply to the 511 sites subject to the Infrastructure – Stormwater Disposal Constraints. Qualifying Matter. Assuming the constraint results in no additional development there is a 3405 reduction in the theoretical yield from that enabled under the MDRS/Policy 3. However other Qualifying Matters that are proposed to apply, excluding the Stormwater Disposal Constraint, will result in a reduction in the theoretical yield of 2274 dwellings, leaving a theoretical yield reduction solely attributable to the Stormwater Disposal Constraint of 1131 dwellings.

Qualifying Matter	Status Quo (Not Impose New or Additional QM)	MDRS and NPSUD Policy 3	Stormwater Disposal Constraints QM
<b>Costs: Social</b>	<ul style="list-style-type: none"> <li>Wider community concern about not enough housing supply with consequential impact on the cost of housing.</li> </ul>	<ul style="list-style-type: none"> <li>New housing and neighbouring private and public property affected by inadequate/uncontrolled stormwater discharges, increased overland flows and flooding.</li> <li>Impacts outlined above will increase primarily from increased heavy rainfall events due to climate change</li> <li>Reduced mental health and wellbeing of residents associated with uncontrolled stormwater flows and increased overland and flood flows.</li> </ul>	<ul style="list-style-type: none"> <li>Restrictions in achieving the level of density envisaged by the NPSUD and the MDRS for sites unless adequate stormwater disposal can be provided for.</li> <li>Additional development costs involved in design, installation, maintenance of on-site stormwater disposal infrastructure, or in achieving a connection to the stormwater network.</li> <li>Existing development remains on some sites and may not be upgraded causing some sites to appear run down with blight occurring.</li> </ul>
<b>Costs: Economic (not otherwise covered by housing capacity issues)</b>	<ul style="list-style-type: none"> <li>Wider community concern about cost of housing due to perceived constraint on intensifying in some parts of Auckland.</li> <li>Some single family homes sites may have more investment in them (gentrification).</li> </ul>	<ul style="list-style-type: none"> <li>Developers have to fund solutions for enabled development potentially unbeknown to them until some way post purchase and through the development process.</li> <li>Clean up costs associated with more frequent stormwater flooding of private and public property are met by ratepayers and insurers.</li> <li>Impacts outlined above will increase primarily from increased heavy rainfall events due to climate change.</li> </ul>	<ul style="list-style-type: none"> <li>Cost of the resource consent process where more than one dwelling is proposed on a site subject to stormwater disposal constraints.</li> <li>Developers/owners have to fund the design, installation and maintenance of on-site stormwater disposal solutions.</li> <li>Existing development remains on some sites and may not be upgraded causing some sites to appear run down with blight occurring.</li> </ul>
<b>Costs: Environmental</b>			<ul style="list-style-type: none"> <li>Development on sites that are not constrained will advance and there may be increases in emissions from residents having to travel further as some of these sites on the urban edges will be served by newer infrastructure.</li> </ul>

Qualifying Matter	Status Quo (Not Impose New or Additional QM)	MDRS and NPSUD Policy 3	Stormwater Disposal Constraints QM
<b>Benefits</b>			
<b>Benefits: Social</b>		<ul style="list-style-type: none"> <li>• Ability to build up to three dwellings on a site in all residential zones may be perceived by existing landowners of sites as a form of windfall /investment for the future even if they do not intend to develop themselves.</li> <li>• Ability to build up to three dwellings on a site in all residential zones. Ability to subdivide around those sites knowing that consent must be granted.</li> </ul>	<ul style="list-style-type: none"> <li>• Houses are not constructed on sites where there is no or inadequate stormwater disposal available.</li> <li>• Homeowners and occupiers are not subject to uncontrolled stormwater discharges, increased overland flows and flooding because of inadequate stormwater disposal provision.</li> </ul>
<b>Benefits – Economic</b>		<ul style="list-style-type: none"> <li>• Ability to build up to three dwellings on a site in all residential zones.</li> <li>• Ability to subdivide around those sites knowing that consent must be granted and to achieve / provide legal title making the future sale less problematic and the ability to realise more value easier.</li> </ul>	<ul style="list-style-type: none"> <li>• The full development potential of sites may be limited in response to these constraints.</li> <li>• Avoidance of clean-up costs to ratepayers and insurers associated with more frequent stormwater flooding of private and public property.</li> </ul>
<b>Benefits – Environmental</b>			

## **Risks of Acting or Not Acting**

- The risk of not introducing the Stormwater Disposal Constraint as a qualifying matter is that the environment and the occupants of sites may experience the adverse effects associated with uncontrolled stormwater flows if development occurs as enabled by the MDRS.
- The risk of acting and introducing the Stormwater Disposal Constraint as a qualifying matter is that 511 assessments to support resource consent applications will be required with a probability that a portion of these consents will not be granted as the effects of the stormwater disposal constraint experienced by the individual site will not be able to be mitigated.

## **Key Trade-Offs**

- The key trade-off of applying the constraint is that the owners of 511 individual sites may not be able to fully realise the development enabled under the MDRS unless a stormwater network connection can be established, or on-site soakage achieved.

## **Benefits of Stormwater Disposal Constraint QM**

- Houses are not constructed on sites where there is no or inadequate stormwater disposal.
- Homeowners, occupiers and members of the public are not subject to uncontrolled nuisance stormwater flows.

## **Description of How Qualifying Matter is to be Implemented**

The Stormwater Disposal Constraints qualifying matter will be accommodated in PPC78 through the following:

- Adding a 'Infrastructure – Stormwater Constraints Control' layer to the planning maps as a new control.
- Applying the control layer through mapping to:
  - sites in the Low Density Zone (formerly the Single House Zone) where a site is identified by Healthy Waters as having stormwater disposal constraints.
  - sites up zoned from the former Single House to the amended Mixed Housing Urban Zone where a site is identified by Healthy Waters as having stormwater disposal constraints.
  - sites currently zoned Terrace Housing and Apartment Buildings Zone and sites up zoned from the former Single House to the amended Terrace Housing and Apartment Buildings Zone where a site is identified by Healthy Waters as having stormwater disposal constraints<sup>7</sup>.

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<sup>7</sup> No new amended THAB zoned sites have currently been identified within the Stormwater Disposal Constraints Control extent.

- Amending the activity tables in the residential zones to require more than one dwelling on a site identified on the planning maps as being subject to the Infrastructure – Stormwater Constraints Control to be classified as a restricted discretionary activity and including matters of discretion and assessment criteria related to Stormwater Disposal capacity.
- Amending the activity tables for subdivision of sites up zoned from the former Single House or in the amended Terrace Housing and Apartment Buildings Zone identified on the planning maps as being subject to the Infrastructure – Stormwater Constraints Control to be classified as a restricted discretionary activity and including matters of discretion and assessment criteria related to Stormwater Disposal capacity.

## Overall Conclusion

The overall conclusion is:

- The purpose of the qualifying matter, having identified sites where stormwater disposal is currently constrained and these constraints are not expected to be lifted in the life of the AUP, is to require development of more than one dwelling on these sites to be assessed as a restricted discretionary activity. This is important to ensure that the ability to adequately dispose of stormwater is established before consent is granted.
- The impact of the qualifying matter on the level of development enabled by the MDRS is that 511 sites may potentially not be developed to the extent enabled.
- The qualifying matter as drafted requires a resource consent to be submitted if more than one dwelling is proposed on an identified site so that the effects of the development on the stormwater constraint can be assessed. In some sites the assessment may show that there is ability for that particular development to go ahead and the development enabled. On others it may be necessary for the application to be declined. By providing for development where appropriate to be enabled, the qualifying matter can be implemented in way that has the least impact on the objectives of the IPI.

## Attachment One:

### Information Used

The list of reports, documents, evidence, plan versions et al that were used to inform this s32 assessment are detailed below.

Name of Document, Report, Plan	How Did it Inform the Development of the Plan Change
<p><b>Watercare Map No: PR15098_04b; Date: 16 February 2017; 'Watercare Services Ltd, Current Drainage System Types 2016'; and</b></p> <p><b>Watercare 'Metadata – Current Drainage System Types Layer – December 2016'.</b></p>	<p>The background research/knowledge which informed the extents of various areas within the Auckland Isthmus with differing drainage scenarios illustrated on the map – identified a specific cluster of sites in Mt Eden where there is an absence of public stormwater network in combination with low ground soakage capacities – for which specific stormwater disposal solutions will need to be engineered (if possible) to ensure adequate stormwater disposal for any intensification of development above the existing low residential density.</p>
<p><b>Central Auckland Network Optimisation Programme (CANOPY) – Meola Catchment Options Report, prepared for Watercare and Auckland Council (Healthy Waters) by GHD, June 2017</b></p>	<p>Documents the extent of the stormwater upgrades required and updates the costs to theoretically provide a SW network to service the sites identified within the proposed Stormwater Disposal Constraints Control layer, based on the work completed in the 2013 report below and was costed at approx. \$638M in 2017, approx. \$1.3B+ as at 2022. Further substantiating the significant cost associated with providing an infrastructure solution for those sites identified with stormwater disposal constraints, prohibitive in terms of inclusion of any such project in Healthy Waters future work programmes.</p>
<p><b>Meola Stormwater Trunk and Network Options Assessment Shallow Trunk Options and Feasibility Report – Draft, 22 November 2013, prepared for Auckland Council by URS, SKM &amp; Jacobs Associates</b></p>	<p>Earlier work completed which investigated the feasibility and cost to reticulate upper catchment areas from those sites within the proposed Stormwater Disposal Constraint located in the Edendale sub-catchment of the Meola catchment. Findings were that the work would be very technically challenging, with considerable consenting risks, and very expensive costing upwards of \$190M (as at 2013, now likely \$400M as at 2022 with construction escalation). Consequently, no such projects have been put forward for inclusion in the LTP or sit on the projects radar for Healthy Waters to implement.</p>



<p><b>‘Government’s new housing rules; What it means for Auckland’, May 2022</b></p>	<p>Summarises feedback received during the consultation regarding Auckland Council’s ‘preliminary response’ to NPSUD and MDRS including the proposal to include sites in Auckland with long term significant constraints as a qualifying matter, which indicates support for the proposal from the majority of individuals and organisations who responded.</p>
<p><b>Local Board Feedback – (Local board feedback on the council's preliminary response to the National Policy Statement on Urban Development 2020 and the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021), June 2022</b></p>	<p>The majority of boards supported the proposal that long-term infrastructure constraints needed to be recognised – some pointing out the issues currently experienced in some parts of their board area.</p>

## Consultation

The Council provided an opportunity to the Auckland community to comment on its ‘preliminary response’ proposals to the government’s National Policy Statement on Urban Development 2020 (NPS-UD) and introduction of Medium Density Residential Standards (MDRS) to the RMA during the period April 19 to May 9, 2022. Respondents were in favour of the inclusion of areas in Auckland with long-term significant infrastructure constraints as a qualifying matter.

- 70% (4,290) of the 6,155 responses from individuals, and 43% (73) of the 168 responses from organisations supported the proposal.
- 17% (1027) of individuals did not support it, while 19% (32) organisations did not.

Comments provided by those in support noted the proposal is pragmatic or makes sense and that adequate infrastructure is needed before intensification takes place.

306 of the 6,155 responses (five per cent) to this proposal came from individuals who identified as Māori. Of those, 66 per cent supported the proposal, and 21 per cent did not support the proposal.

A separate, independent, online public opinion survey was conducted by Kantar alongside the consultation, surveying a sample of 2,041 Auckland residents aged 18 years and older from 29 April to 22 May 2022. The survey found majority support for the proposal for an infrastructure qualifying matter with two thirds (65%) of respondents supporting the exemption for areas with infrastructure that does not support population growth. Adequate infrastructure also topped the list of what was of greatest importance to Aucklanders in planning for more housing (62%).

## Local Boards

Auckland's Local Boards were consulted on whether significant long term infrastructure constraints should be a qualifying matter. The majority board supported this proposal with a number providing additional feedback as follows:

- **Albert-Eden Local Board** – supports the proposal that significant infrastructure constraints should be a qualifying matter – *with specific inclusion of sites with stormwater disposal issues as identified by staff in Mt Eden, Epsom and Balmoral.*
- **Devonport-Takapuna Local Board** – strongly supports the proposal to include areas in urban Auckland with long-term significant infrastructure constraints as a qualifying matter, and additionally considers that adequate stormwater retention tanks should be required, with capacity to accommodate future peak rainfall projections resulting from climate change.
- **Franklin Local Board** – consider additional areas should be included including Beachlands-Maraetai and Waiuku in relation to infrastructural constraints other than related to stormwater infrastructure.
- **Howick Local Board** – Support the proposal to include areas in urban Auckland with long-term significant infrastructure constraints as a qualifying matter and further note infrastructure deficiencies in the Howick local board area, notably storm and wastewater issues, causing hardship to some residents and making development difficult.
- **Māngere-Ōtāhuhu Local Board** – support the proposal to include areas in urban Auckland with long-term infrastructure constraints as a qualifying matter, adding that adequate infrastructure investigation and studies are needed before intensification takes place.
- **Ōrākei Local Board** – note that sub catchment areas of Remuera are constrained with systematic, recurring stormwater and wastewater infrastructure failures and that given ongoing of pollution of Hobson Bay as a consequence of these significant infrastructure constraints these must be a qualifying matter over the next decade for the residential areas around Hobson Bay.
- **Puketāpapa Local Board** – support the principle of including long-term significant infrastructure constraints as a qualifying matter, but that these need to be focused on natural barriers to infrastructure rather than potential costs to the Council, noting the ability to charge Developer Contributions in addressing these costs.
- **Waitākere Ranges Local Board** – are concerned in areas zoned for housing intensification that constraints on stormwater infrastructure become a pressure on local parks to provide for stormwater outflows and seek strengthened requirements for water sensitive design and protection of open space from the impact of adjoining development.
- **Waitematā Local Board** – support the proposal to include areas in urban Auckland with long term significant infrastructure constraints as a qualifying matter only if it would be impracticable or prohibitively costly to overcome the constraint.

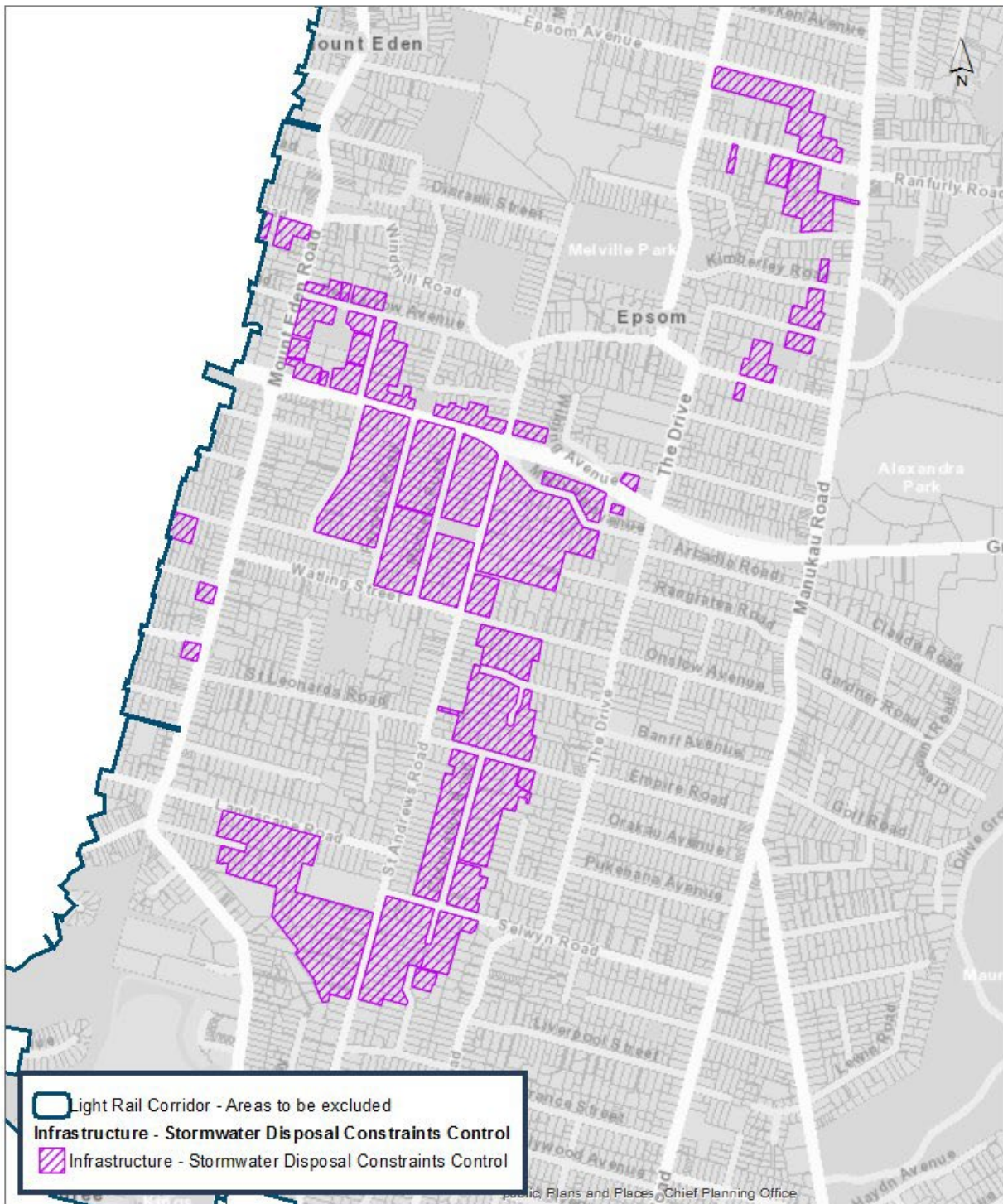
## **Mana Whenua / Iwi Authorities**



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 in relation to the changes required under the NPS-UD and in relation to the need for infrastructure to be considered as a qualifying matter in terms of Section 77L of the RMA.

# Attachment Two: Stormwater Disposal Constraints Control Map

Auckland Council

Map



-  Light Rail Corridor - Areas to be excluded
-  Infrastructure - Stormwater Disposal Constraints Control

**DISCLAIMER:**  
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## SW Disposal Constraints Control

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 Scale @ A4  
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 Date Printed:  
 21/07/2022

