



Variation 2 (VAR2)

PPC50 to the Auckland Unitary Plan
(Operative in part)

**SECTION 32 and sec77J/77L process for variation to Private Plan Change 50
EVALUATION REPORT**

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Executive Summary

This report evaluates Variation 2 to Private Plan Change 50 to the Auckland Unitary Plan (Operative in Part)(AUP). This variation is required by Clause 34 of Schedule 3 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021. This report also addresses any qualifying matter to the medium density residential standards (MDRS) of Schedule 3A of the Resource Management Act 1991 (RMA) as a result of this variation.

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 Variation 2 (**VAR2**) to proposed Private Plan Change 50 (**PPC50**) to the Auckland Unitary Plan (Operative in Part) (**AUP**).

This variation is required by Clause 34 of Schedule 3 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021.

The second part of this report addresses any qualifying matter to the medium density residential standards (MDRS) of Schedule 3A of the Resource Management Act 1991 (RMA) as a result of this variation.

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 77J or 77L.

Proposed Plan Change 50

PPC50 is a private plan change relating to land in Drury. Submissions on the plan change were heard in the second half of 2021 and a decision was released on 5 May 2022. PPC50 is subject to a number of appeals.

PPC50 provided for land to be zoned Terrace Housing and Apartment Building Zone. The plan change also includes a precinct that adjusts a number of the underlying zone standards. Many of these are more lenient than the MDRS and accordingly do not impact on the MDRS or to not involve density rules.

PPC50 does require some minor amendments to bring it line with the MDRS including the following;

- Adjustment of the application of subdivision rule IX.4.1(A1) matters for discretion and to relate to vacant sites.
- Adjustment of the notification rule iX.5 to be consistent with the MDRS

In respect of the requirements of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 the Precinct includes the following qualifying matters;

- A more restrictive yard rule adjacent to the North Island main Truck Railway Line
- Larger riparian yards and planting requirements for some streams.
- Development staging requirements (transportation triggers).
- Consent requirements for development prior to subdivision.

Section 32 Evaluation VAR 2

This section of the report is the s32 evaluation of the changes proposed to PPC50 required to implement the MDRS.

Section 32 of the Act requires that before adopting any objective, policy, rule or other method, the Council shall carry out an evaluation to examine:

- The extent to which each objective is the most appropriate way to achieve the purpose of the Act, and
- Whether, having regard to their efficiency and effectiveness, the policies, rules or other methods are the most appropriate for achieving the objective.

The evaluation must also take into account:

- The benefits and costs of policies, rules, or other methods; and
- The risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules or other methods.

The evaluation approach

This section outlines how VAR2 has been evaluated. The rest of this report will follow the evaluation approach described in the table below. In accordance with section 32(6) of the RMA and for the purposes of this report:

- i. the 'proposal' means VAR2;
- ii. the 'objectives' means the purpose of VAR2 as no change in objectives are proposed.
- iii. the 'provisions' means the changed provisions within VAR2.

Sections of this report	Evaluation Approach
Section 2: Issues	This part of the report will explain the resource management issues and why there is a need to resolve them.
Section 3: Objectives	This part of the report will outline the purpose of VAR2.
Section 4: The development and evaluation of options	In accordance with section 32(1)(b) and (2) of the RMA, this section examines whether the options appropriately achieve the objectives of the AUP and the sustainable management purpose of the RMA. The options are assessed by their efficiency and effectiveness, costs, benefits and risks to resolve the RMA issue.
Section 5: Reasons for the proposed plan change	In accordance with subsections 32(1)(a) and (1)(b)(iii) of the RMA, this part of the report examines the extent to which the objectives of the proposal (VAR2) are the most appropriate way to achieve the purpose of the RMA. This section outlines the reasons for VAR2 and the scope of VAR2 noting that no change are proposed to any objectives and policies.

Section 6: Statutory evaluation	This part of the report evaluates the relevance of VAR2 to Part 2 (sections 5-8) and other relevant parts / sections of the RMA.
Section 7: National and local planning context	This part of the report evaluates the relevance of VAR2 against the national and local planning context.
Section 8: Development of the plan change	This part of the report outlines the methodology and development of VAR2, including the information used and consultation undertaken in preparing VAR2. This section includes a summary of all advice received from iwi authorities on VAR2 (as required by section 32(4)(a) of the RMA).
Section 9: Evaluation of provisions	This part of the report outlines the evaluation conducted on individual issues contained within VAR2.
Section 10: Conclusion	This part of the report concludes that VAR2 is the most efficient, effective and appropriate means of addressing the resource management issues identified.

This section 32 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.

Issues

As noted above PPC50 is a private plan change relating to land in Drury. Submissions on the plan change were heard in the second half of 2021 and a decision was released on 5 May 2022. PPC50 is subject to a number of appeals.

PPC50 provided for land to be zoned Terrace Housing and Apartment Building Zone. The plan change also includes a precinct that adjusts a number of the underlying zone standards. Many of these are more lenient and accordingly do not impact on the MDRS.

Clause 34 of Schedule 5 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 requires the Council to notify a variation to the a plan change that is proposing or requesting changes to a relevant residential zone at the same time as the Council notifies the IPI to incorporate the MDRS as required by section 77G(3). VAR2 has been prepared in direct response to this requirement.

Purpose of VAR2

PPC50 does require some minor amendments to bring it line with the MDRS including the following;

- Adjustment of the application of subdivision rule IX.4.1(A1) matters for discretion and to relate to vacant sites.
- Adjustment of the notification rule iX.5 to be consistent with the MDRS.

No objectives or policies are proposed to be changed. Where existing standards are not subject to the MDRS no change is proposed.

Development of Options

Description of options

The following options were considered in the preparation of VAR2. The range of options available to the Council are limited due to the directive nature of the MDRS and the RMA amendment. However it is considered that the following three options best describe the range of actions open to Council.

Option 1 is the status quo or do nothing option. Under this option PPC50 would not be varied and the provisions would remain as they are (subject to any appeals that may be lodged).

Option 2 is to introduce VAR2 as proposed. As described above this would amend the Precinct provisions (so far as they are relevant) to be consistent with the MDRS. . This leaves the provisions that do not relate to the MDRS as they are.

Option 3 is to propose a variation that removes the Waihoehoe Precinct entirely. The underlying zone (which would be amended as part of the Council's wider IPI) would apply without the additional layer of provisions provided by the Precinct.

Evaluation of options

Describe criteria used to evaluate the options. Evaluation options according to - i.e. appropriateness, effectiveness, efficiency, costs etc. refer to the table below

	Option Status Quo (do nothing)	Option 2 VAR2 (preferred option)	Option 3 (Delete Waihoehoe Precinct)
Appropriateness	This option is not considered to be appropriate as it is contrary to the direction within the RMA to notify a variation.	This option is considered to be appropriate as it adjusts the provisions within PPC50 to allow implementation of the MDRS. At the same time it retains the other parts of the Precinct that will assist in guiding development of land within the Precinct consistent with the existing provisions.	This option will be appropriate in respect of the implementation of the MDRS. However it is not considered to be appropriate to remove the other guiding provisions of the precinct which have been developed through the very recent plan change process.
Effectiveness	This option is not likely to be effective as it will result in discrepancies between the AUP, which will have included the MDRS, and the Precinct.	This option is likely to be effective in that it will give effect to the MDRS while retaining the other guiding provisions of PPC50.	This option will be effective in giving effect to the MDRS. It will be less effective in providing other guidance to the development of the land within the Precinct.
Efficiency	There may be short term efficiencies in maintaining the existing provisions, but as time passes having provisions that do not satisfactorily work together will not be efficient.	This option is likely to be relatively efficient in the use of land as it incorporates the MDRS which will not significantly change outcomes. The qualifying matters are considered separately but these will result in less developable land.	This option will result in the efficient use of land in accordance with the. This option will result in some inefficiencies, particularly in terms of how the land is developed and on the surrounding transport networks (i.e. road and rail) if the guiding provisions within PPC50 are removed.

<p>Costs</p>	<p>There are likely to be litigation and other costs associated with pursuing an option not provided for in the Act.</p> <p>The cost to the owners and developers of the land within the Precinct will be mainly around delays in achieving certainty.</p> <p>There are unlikely to be any significant environmental or amenity costs compared to the existing situation.</p>	<p>The amenity/ environmental costs of this option will be less than with the costs imposed by the MDRS.</p> <p>The guiding provisions within the Precinct may result in some developer costs but is likely to result in less environmental and amenity costs than would otherwise occur if the Precinct provisions were not retained.</p>	<p>The amenity/ environmental costs of this option will be commensurate with the costs imposed by the MDRS.</p> <p>The costs to land developers will likely be marginally reduced though reduced resource consent requirements and greater development opportunities.</p> <p>Additional costs in respect of traffic congestion, environmental costs and on the operation of the rail network will arise.</p>
<p>Benefits</p>	<p>The benefits of this option is that PC50 will remain as it has been proposed. This gives some certainty to the land developers that they will be able to achieve their aims in the development of the land. This benefit is fairly limited at this time as there are still appeals outstanding and the existing provisions cannot be yet relied upon.</p> <p>There is no great benefit in respect of consistency with the AUP as that will change though the IPI.</p>	<p>The incorporation of the MDRS will create limited benefits of increased housing with marginally fewer restrictions and resource consent costs.</p> <p>This option also has the benefit of retaining the guiding provisions of the Precinct.</p>	<p>The incorporation of the MDRS have limited benefits of increased housing with fewer restrictions and resource consent costs.</p> <p>However this option would result in fewer benefits as a result of deleting the guiding provisions of the Precinct.</p>
<p>Risks</p>	<p>There are considerable legal risks with this option. The amendment to the RMA requires that the Council notifies a variation.</p>	<p>The risks of not proceeding with this option is that the MDRS will not be appropriately applied to the Precinct in accordance with the Act.</p>	<p>There is considerable risk in respect of this option that the benefits arising from the Precinct provisions would be lost.</p>

In summary it is considered that doing nothing is not appropriate as this would not result in the implementation of the MDRS and carries considerable risk of litigation in respect of failure to implement the requirements of the RMA.

The option of removing the precinct is not favoured. While this will effectively implement the MDRS it will remove what can be described as the guiding provisions within the Precinct that have and will continue to manage the transition of this area from a greenfield site to a developed neighbourhood. This is likely to remove the considerable benefits of the master planning that underpins the existing precinct that has been incorporated into the AUP in respect of this land.

The preferred option is a variation to PPC50 that amends the plan change so that it is consistent with, or at least allows the underlying zone, which will incorporate the MDRS, to apply to residential land within the precinct, while at the same time retaining the other provisions within the precinct that will continue to guide the development of the land.

Reasons for the proposed variation

VAR 2 amends PPC 50 as follows;

- a. Adjustment of the application of subdivision rule IX.4.1(A1) matters for discretion and to relate to vacant sites.
- b. Adjustment of the notification rule iX.5 to be consistent with the MDRS.

The reasons for VAR2 relate to the requirement of the RMA to notify a variation to make the PPC50 provisions inclusive of the MDRS. As noted in the options assessment above VAR2 does this while retaining the guidance for development currently provided for in the Waihoehoe Precinct provisions.

As the purpose of VAR2 is to implement the MDRS in the Waihoehoe Precinct, any other changes to PPC50 not achieving that purpose are likely to be out of scope

Statutory Evaluation under the RMA

VAR2 is a requirement of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021. Clause 34 of Schedule 12 states that:

34 Status of partly completed proposed plan changes modifying relevant residential zone

(1) This clause applies to any plan change that is proposing or requesting changes to a relevant residential zone or a new residential zone if—

(a) the plan change has been notified by a specified territorial authority before the commencement date, but decisions on submissions on that plan

change have not been notified in accordance with clause 10 of Schedule 1 before that date; and

(b) the plan change has not been withdrawn; and

(c) the MDRS is not already being incorporated through any proposed rules.

(2) The specified territorial authority must notify a variation to the plan change at the same time that it notifies the IPI to incorporate the MDRS as required by section 77G(3).

(3) However, the variation does not merge with the specified territorial authority's IPI but must be processed at the same time as the IPI, using the ISPP.

(4) The variation must incorporate the MDRS into all areas within the scope of the plan change that are a relevant residential zone or a new residential zone.

(5) The variation may only include those uses referred to in section 80G(1)(b).

(6) The variation may be declined or withdrawn only if it is no longer required for the plan change to meet the requirements of section 77G(1).

(7) The variation must use the ISPP to incorporate the MDRS.

(8) For the avoidance of doubt,—

(a) section 86B does not apply to any rules notified in the variation:

(b) this clause applies only in relation to the district of a specified territorial authority.

PPC50 meets the requirements of this clause and accordingly a variation must be prepared and notified accordingly. The process that VAR2 must go through is set out in the amendment Act which utilises the ISPP at the same time as the Council's IPI which will introduce the MDRS into the AUP.

It is considered that overall VAR2 is consistent with Part 2 of the Act as it aligns the Waihoehoe Precinct provisions with the MDRS.

The relevance of the plan change to sections 5, 6,7,8 is outlined on the table below.

RMA 1991	Relevant section	Relevance to VAR2
S5 Purpose	All	VAR2 will assist people to provide additional housing while maintaining a level of residential amenity set out in the Act.
S6 Matters of national importance	All	VAR2 does not impact on matters of national importance. (The retention of some provisions is discussed in the qualifying matters assessment below).
S7 Other matters	(b) the efficient use and development of natural and physical resources:	VAR2 supports the efficient use of land as provided in the MDRS.

	(c) the maintenance and enhancement of amenity values:	VAR2 supports the residential amenity provided by the MDRS and in addition maintains the amenity as far as practicable existing within the PPC50 provisions.
S8 Treaty of Waitangi	All	TBC

National and Regional Planning Context

VAR2 has been assessed in respect of the following national and regional planning documents.

National Policy Statements

New Zealand Coastal Policy Statement

It is considered that the New Zealand Coastal Policy Statement is not relevant to the assessment of VAR2.

National Policy Statement on Electricity Transmission

It is considered that the National Policy Statement on Electricity Transmission is not relevant to the assessment of VAR2.

Accordingly VAR7 will not be inconsistent with the *National Policy Statement on Electricity Transmission*

National Policy Statement for Freshwater Management

VAR2 does not amend any of the PP50 provisions relating to freshwater management.

National Policy Statement on Urban Development

The NPSUD provides national direction on urban development. Of particular relevance is Policy 3 which requires Councils to enable prescribed levels of development throughout the city. The MDRS is a means of implementing this policy.

It is considered that aligning PPC50 with the MDRS is consistent with giving effect to the NPSUD.

While there is a designation for the Drury Station nearby as the land is still zoned Future Urban Zone a walking catchment has not yet been identified. The Future Urban zone is not part of the “urban environment” and therefore policy 3 does not apply. If it gets a ‘live’ zoning then the Council will apply the walkable catchment to it – using the planned road and walking networks. This can either be through submissions on the IPI (if there is enough detail yet about how that land is being developed and certainty about a ‘live’ zoning) or it can be through a later plan change.

Other Acts

The Hauraki Gulf Marine Park Act and the Waitakere Ranges Heritage Area Act are not relevant to the consideration of VAR2.

Regional Documents

Auckland Plan

It is considered that VAR2 is consistent with the Auckland Plan In respect of providing for housing the plan contains directions to develop a quality compact urban form to accommodate Auckland's growth and accelerate the construction of homes that meet Aucklanders changing needs and preferences

Auckland Regional Policy Statement (RPS)

The relevant objectives and policies of the RPS are set out in the table below.

RPS Chapter	Relevant objective/policy	Relevance to VAR2
B2. Tāhuhu whakaruruhau ā-taone - Urban growth and form Tāhuhu whakaruruhau ā-taone	Objective B2.2.1(1) A quality compact urban form that enables all of the following: (a) a higher-quality urban environment; (b) greater productivity and economic growth; (c) better use of existing infrastructure and efficient provision of new infrastructure; (d) improved and more effective public transport; (e) greater social and cultural vitality; (f) better maintenance of rural character and rural productivity; and (g) reduced adverse environmental effects.	The Waihoehoe Precinct will continue to give effect to this objective. A more compact urban form will be enabled at higher residential densities.
	Objective B2.2.1(2) Urban growth is primarily accommodated within the urban area 2016 (as identified in Appendix 1A).	The Waihoehoe Precinct is located outside of the does not enable urban area 2016. However this has been addressed in the PPC50 process and the VAR2 does not provide for additional development area or significantly greater development potential.
	Objective B2.2.1(3) Sufficient development capacity and land supply is provided to accommodate residential, commercial, industrial growth and social facilities to support growth.	VAR2 will provide more efficient use of the existing urban land resource and will not impact either way on development capacity.
	Objective B2.2.1(4) Urbanisation is contained within the Rural Urban Boundary, towns, and rural and coastal towns and villages.	The Waihoehoe Precinct is located within the RUB.
	Objective B2.2.1(5) The development of land within the Rural Urban Boundary, towns, and rural and coastal towns and villages is integrated with	PPC50 enables the integration of development with infrastructure and VAR2 does not change the infrastructure provisions.

	the provision of appropriate infrastructure.	
	Policy B2.2.2 (3) Enable rezoning of future urban zoned land for urbanisation following structure planning and plan change processes in accordance with Appendix 1 Structure plan guidelines.	PPC50 provides for such rezoning. Var2 does not impact on this.
	Policy B2.2.2(7) Enable rezoning of land within the Rural Urban Boundary or other land zoned future urban to accommodate urban growth in ways that do all of the following: (a) support a quality compact urban form; (b) provide for a range of housing types and employment choices for the area; (c) integrate with the provision of infrastructure; and (d) follow the structure plan guidelines as set out in Appendix 1.	PPC50 provides for such rezoning. Var2 does not impact on this.
	Objective B2.3.1 A quality built environment where subdivision, use and development do all of the following: (a) respond to the intrinsic qualities and physical characteristics of the site and area, including its setting; (b) reinforce the hierarchy of centres and corridors; (c) contribute to a diverse mix of choice and opportunity for people and communities; (d) maximise resource and infrastructure efficiency; (e) are capable of adapting to changing needs; and (f) respond and adapt to the effects of climate change.	The particular aspects of the Waihoehoe Precinct will be retained.
	Objective B2.3.1(3) The health and safety of people and communities are promoted.	Particular provisions within PPC50 are aligned with this objective. These are not proposed to be amended by VAR2.
	Objective B2.4.1(1) Residential intensification supports a quality compact urban form.	PPC50 will continue to enable a compact urban form.
	Objective B2.4.1(2) Residential areas are attractive, healthy and safe with quality development that is in keeping with the planned built character of the area.	Development will be enabled in keeping with the MDRS.
	Objective B2.4.1(3) Land within and adjacent to centres and corridors or in close proximity to public transport and social facilities (including open space) or employment opportunities is the	VAR2 does not impact of the locational aspects of PPC50.

	primary focus for residential intensification.	
	Objective B2.4.1(4) An increase in housing capacity and the range of housing choice which meets the varied needs and lifestyles of Auckland's diverse and growing population.	VAR2 does not change PPC50 in respect of these matters.
	Policy B2.4.2(1) Provide a range of residential zones that enable different housing type	No change is proposed to the range of residential zones.
	Policy B2.4.2(3) Provide for medium residential intensities in area that are within moderate walking distance to centres, public transport, social facilities and open space.	The location of the Waihoehoe Precinct meets this policy.
	Policy B2.4.2(5) Avoid intensification in areas: (a) where there are natural and physical resources that have been scheduled in the Unitary Plan in relation to natural heritage, Mana Whenua, natural resources, coastal environment, historic heritage or special character; or (b) that are subject to significant natural hazard risks; where such intensification is inconsistent with the protection of the scheduled natural or physical resources or with the avoidance or mitigation of the natural hazard risks.	These areas are avoided.
	Policy B2.4.2(6) Ensure development is adequately serviced by existing infrastructure or is provided with infrastructure prior to or at the same time as residential intensification	PPC50 includes provisions aimed at ensuring this policy is met. VAR2 does not change these proviso. (Please also see QM discussion below).
	Policy B2.4.2(7) Manage adverse reverse sensitivity effects from urban intensification on land with existing incompatible activities.	These matters are addressed in PCC50. Var2 does not amend these provisions.
	Policy B2.4.2(8) Recognise and provide for existing and planned neighbourhood character through the use of place-based planning tools.	The Waihoehoe Precinct provisions that remain are retained in accordance with this policy.
	Policy B2.4.2(9) Manage built form, design and development to achieve an attractive, healthy and safe environment that is in keeping with the descriptions set out in placed-based plan provisions.	The Waihoehoe 1 Precinct provisions that remain are retained in accordance with this policy.

	Policy B2.4.2(11) Enable a sufficient supply and diverse range of dwelling types and sizes that meet the housing needs of people and communities, including: (a) households on low to moderate incomes; and (b) people with special housing requirements.	The implementation the MDRS will enable an increase in the supply of a range of housing.

Development of Plan Change

Methodology

This methodology section is about how VAR2 was developed. As noted in the discussion above VAR2 is direct requirement of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 and the MDRS. As PPC50 has just recently been heard and decided the approach taken in developing the variation is to do what is necessary to implement the MDRS and no more.

This involved reviewing PPC50 and making decisions on which provisions should change and which were not impacted by the MDRS. Because the Waihoehoe Precinct relies on the underlying zoning the general approach where appropriate was to update a limited number of provisions to ensure the MDRS applied correctly.

A number of qualifying matters were identified. These are addressed in the second part of this report below.

Information Used

The following documents have been used to help with the development of the variation.

Name of document, report, plan	How did it inform the development of the plan change
Decision on PPC50	This document sets out the basis for the decision version of PC50.
PPC 50	This sets out the plan change being amended
Evidence provided to PPC50 hearing	These documents set out the reasoning and provide detailed justifications for many of the provisions contained within PPC50.
Auckland Unitary Plan (Operative in Part) including Regional Policy Statement	This provided guidance to the evaluation of provisions.
National Policy Statement – Urban Development	This provided guidance to the evaluation of provisions

Consultation

Consultation with Mana Whenua is currently ongoing. This report will be updated accordingly.

Evaluation of provisions

Purpose of this section is to provide an overall evaluation of the Variation 2

As noted above VAR2 has been developed in response to the requirements of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021. To this end VAR7 does not aim to achieve any other purpose. The main components of the variation are

- a. Adjustment of the application of subdivision rule IX.4.1(A1) matters for discretion and to relate to vacant sites.
- b. Adjustment of the notification rule iX.5 to be consistent with the MDRS.

Overall it is considered that this level of change is necessary to implement the MDRS. The precinct approach is to rely on the underlying zone for matters not covered in the precinct itself. For this reason and to ensure greater consistency across the AUP it is considered that the amendment of incompatible provisions is the most appropriate method. The alternative of bringing the MDRS standards into the precinct provisions would in my view result in unnecessary duplication of rules and potentially inconsistencies if decisions on submissions change provisions in this variation and not in the underlying zone or vice versa.

It is for similar reasons that it is not considered necessary to introduce the polices in Schedule 3B of the amendment Act into the precinct as these will apply as part of the underlying zone.

Some qualifying matters are retained and are considered necessary to ensure consistency of approach within PPC50. The justification for these are set out in the second part of this report.

Conclusion

Overall it is considered that the changes proposed with VAR2 are appropriate and necessary.

Integrated evaluation for qualifying matters

As PPC50 is not operative any qualifying matters must be treated as new qualifying matters and an evaluation undertaken under s77J. For the purposes of Variation 2, evaluation of the variation and the three qualifying matters set out above has been undertaken in an integrated way that combines sec 32, 77J and 77L requirements. The sec 32 evaluation in respect of the VAR2 generally is set out in the first part of this report above.

The evaluation approach in respect of the qualifying matters is described in the table below.

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

Table 1 Integrated approach

Standard sec 32 steps	Plus sec 77J steps for a new qualifying matter
Issue Define the problem- provide overview/summary providing an analysis of the qualifying matter	Sec 77J Describe the qualifying matter. Identify by location (for example, by mapping) where an existing qualifying matter applies
Identify and discuss objectives / outcomes	Sec 77J 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.
Identify and screen response options	Sec 77J Consider a range of alternative density standards for those areas having considered the particular MDRS standards and/or Policy 3 intensification requirements
Collect information on the selected option(s)	Sec 77J 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
Evaluate option(s) - environmental, social, economic, cultural benefits and costs	Sec 77J 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

Overall judgement as to the better option (taking into account risks of acting or not acting)	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
Additional assessment	Where a qualifying matter is not provided for in s77J(a-i) and additional assessment is required under s77L.

Issues

This report addresses the following qualifying matters. It is noted that all the land the subject to PC50 is zoned Residential- Terrace Housing and Apartment Building Zone.

- A more restrictive yard rule adjacent to the North Island main Truck Railway Line
- Larger riparian yards and planting requirements for some streams.
- Development staging requirements.
- Consent requirements for development prior to subdivision.

Overview of the qualifying matters

Yard rule adjacent to the North Island main Truck Railway Line

Rule IX6.9 of PPC50 requires buildings to be setback at least 2.5metres from any boundary which adjoins the North Island Main Truck railway line. The purpose of the rule is to ensure the safe operation of the North Island Main Trunk Line (NIMT) by providing for buildings on adjoining sites to be maintained within their site boundaries.

Under 771(e) this is a qualifying matter required for the purpose of ensuring the safe operation of nationally significant infrastructure.

The standard will apply to all new buildings adjacent to the main trunk line. The yard is not mapped in PPC50 but its location is determined by the location of the NIMT which runs along the northern side of the plan change area. The NIMT is designated within the AUP and its location and boundaries are set.

The NIMT in this location is currently being electrified and this potentially poses a hazard for activities nearby. This is especially the case where buildings are being maintained through the use of scaffolding.

The THAB zone under both the operative provisions and the MDRS requires a 1m yard adjacent to side and rear boundaries of sites. Depending on the eventual subdivision pattern adopted it is likely that all yards adjacent to the NIMT will be sider or rear yards. They will not be front yards as these require a road frontage.

Larger riparian yards and planting requirements for some streams.

Rule IX.6.3 provides as follows;

- (1) *Riparian margins of permanent or intermittent streams must be planted either side to a minimum width of 10m measured from the top of bank of the stream, provided that:*
 - (i) *This rule shall not apply to road crossings over streams;*
 - (ii) *Walkways and cycleways must not locate within the riparian planting area;*
 - (iii) *Any archaeological site identified in a site specific archaeological survey must not be planted;*
 - (iv) *The riparian planting area is vested in Council or protected and maintained in perpetuity by an appropriate legal mechanism.*
- (2) *A building, or parts of a building, must be setback at least 20m from the bank of a river or stream measuring 3m or more in width, consistent with the requirements of E38.7.3.2.*

The purpose of this rule is to contribute to improvements to water quality, habitat and biodiversity.

Under 771(a) this is a qualifying matter to give effect to matter of national importance that decision makers are required to recognise and provide for under section 6 of the RMA. The relevant matter is in s6(a) being;

(a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:

The streams and their margins are indicatively mapped within the precinct map included within PPC50.

The qualifying matter seeks to manage the adverse effects that urban development has on existing streams. The rule has the effect of preventing development in close proximity to streams and requires appropriate planting and ensure that the natural character and water quality within the streams are maintained.

This impacts on the MDRS by potentially requiring larger yards than the standard 1m yard particularly where sites are not subdivided.

Development staging requirements (transportation triggers).

Rule IX.6.1 Staging of Development with Transport Upgrades restricts the number of dwellings within the precinct (and the adjoining Drury Centre and Drury East Precincts) based upon the completion of various upgrades to transport infrastructure. The purpose of

this rule is to manage the adverse effects of traffic generation on the surrounding regional and local road network.

This is considered to be a qualifying matter under 771(j) being any other matter that makes the higher density, as provided for by the MDRS or Policy 3, inappropriate in an area, but only if section 77L is satisfied. Section 77L requires an additional evaluation.

Consent requirements for development prior to subdivision

Activity table Rule IX.4.1(A1) provides that development prior to subdivision a restricted discretionary activity. This is necessary so that any new development is in accordance with the lay out of the precinct plan.

This is considered to be a qualifying matter under 771(j) being any other matter that makes the higher density, as provided for by the MDRS or Policy 3, inappropriate in an area, but only if section 77L is satisfied. Section 77L requires an additional evaluation.

This report therefore examines each of these separately.

Setback from NIMT

Objectives and Policies (existing)

Relevant AUP objectives and policies NIMT Setback.

The relevant AUP objectives and policies, that support the setback of buildings from the NIMT, are as shown in the table 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
	Objective B3.3(1)	Effective, efficient and safe transport
	Policy B3.3.2(1)	Enabling effective, efficient and safe transport

	Policy B3.3.2(5)(f)	Requiring activities adjacent to transport infrastructure to avoid, remedy or mitigate effects which may compromise the efficient and safe operation of such infrastructure.
E26 Infrastructure [rcp/dp]	Objective E26.2.1(1)	The benefits of infrastructure are recognised
	Objective E26.2.1(3)	Safe, efficient and secure infrastructure is enabled, to service the needs of existing and authorised proposed subdivision, use and development.
	Objective E26.2.1(5)	The resilience of infrastructure is improved and continuity of service is enabled.
	Objective E26.2.5.1(6)	Infrastructure is appropriately protected from incompatible subdivision, use and development, and reverse sensitivity effects.

As noted above the management approach in PPC50 is to require buildings to be set back from any boundary adjoining the NIMT to allow for building maintenance to occur within the residential site in a way that does not impact on the safety of operation of the railway line. The yard or set back at 2.5m is 1.5m wider than standard.

Amendments required to district plan objectives and policies

No amendments are required to the PPC50 objectives, policies or rules in response to the MDRS or Policy 3 of the NPS-UD..

Advice to the Select Committee¹ on the Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill, provides support for the retention of the NIMT setback as a method to manage effects on. The advice states that 'existing setbacks can and in some cases, like Transpower, must be kept as intended'.

It is considered that the retention of the setback is appropriate within the Precinct as it will not impact on the zone (which allows greater development than in the MDRS) and is necessary to protect the NIMT.

¹ Departmental Report on the Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill. Ministry for the Environment. Published 3 December 2021. Page 50.

Development of Options

A number of options have been considered in regard to the Section 32 assessment of the NIMT setback within PPC50.

The options for MDRS include:

1. Do not apply the NIMT setback as a qualifying matter i.e. remove the National Grid Corridor Overlay and only apply MDRS
2. Apply the NIMT as a qualifying matter (i.e. retain the PPC50 provisions)
3. Rely on objectives and policies to guide the assessment of resource consent applications on site adjacent to the NIMT.

Option 2 is the preferred option for the application of the MDRS. Therefore in regard to the MDRS, these will be applied in full relying on the NIMT setback rule to manage the effects of development, as it does in the decisions version of PPC50.

Consequences for development potential

The consequences for development potential will be that an additional 1.5m strip of land will become unavailable for building adjacent to the NIMT. This represents an area of approximately 810m² (which does not include areas to be set aside as open space) from an area of 49ha. This represents 0.17% of the area of the precinct. In reality the effect on development potential lost will likely be smaller than this as the space will not be lost from use as it will likely be used for private open space, service areas, car parking and outlook. It will be incorporated within the eventual design of development and will not in my opinion act as a constraint on development potential of the land.

Kiwirail in its submission on PC50 requested a 5m NIMT setback. This was not agreed by the Commissioners hearing the plan change request. Kiwirail have now appealed this provision seeking a 5m setback. This report evaluates only the 2.5m setback.

Evaluation of options

Qualifying matter	Option 1	Option 2	Option 3
Costs of applying the QM – broader social, economic, environmental, cultural	<p>QM not applied so no costs in respect of development potential.</p> <p>Based on evidence from Kiwirail on PPC50 there is potential for costs of service disruptions from</p>	<p>There are no wider issue costs in applying the QM in this respect.</p> <p>It is a straight forward rule that does not have a significant transaction cost and</p>	<p>The costs of this option are more difficult to quantify as it relies on and objectives and policy regime for which the outcomes will be less certain. Potentially this approach will result in less costs in terms of land used about additional costs in uncertainty and</p>

	items falling on the line and personal safety costs to persons injured as a result of contact with rail infrastructure.	will not result in wider effects.	potentially less effectiveness of the protection for Kiwirail.
Costs of applying QM – housing supply / capacity	QM not applied so no costs on housing supply and capacity.	The costs of applying the QM in respect of the land relates to the reduction of buildable land equating to approximately 810m ² .	The costs of this option are more difficult to quantify as it relies on and objectives and policy regime for which the outcomes will be less certain. Potentially this approach will result in less costs in terms of land used about additional costs in uncertainty and potentially less effectiveness of the protection for Kiwirail.
Benefits of the QM – broader social, economic, environmental, cultural	The benefits of not applying the QM in this respect relate to a small additional area of buildable land being enabled.	The benefits of the QM relate to the safety and operation of the NIMT.	This option is likely to have some benefits in respect of the safety of the NIMT but these are likely to be less than applying the QM. This is due to the less certain nature and effects on any measure taken to meet the objectives and policies in any particular application. It is also noted that no benefits will arise for proposals that proposed 1-3 dwellings on a site, as these will be permitted activities and not subject to additional scrutiny through the resource consent process.

Risks of acting or not acting.

The main risk associated with the NIMT Yard is the potential for disruption of the NIMT line together with safety implications for residents and people undertaking maintenance work on buildings adjacent to the line. This is to some extent exacerbated by the electrification of the line. If the additional yard is not imposed it is considered that these adverse effects will result. I also consider that the setback of 2.5m is the minimum tenable. A 1m set back would not achieve the disruption and safety benefits of a 2.5m setback.

The risks associated with acting is a small reduction of the buildable area within the zone. The consequences of this risk is small. The setback area is not taken out of use, as that land may still be able to be used for outdoor living space and outlook area as required by the MDRS. Alternatively it may be used for access, circulation and parking spaces. It is not likely to result in a noticeable reduction in the number of dwellings able to be built on the land.

Extent to which MDRS are modified

This section provides description of how MDRS are modified only to the extent necessary to accommodate the qualifying matter and how the modifications apply to spatial layers relating to overlays, precincts, specific controls and development areas (s77J(4)(b) RMA). The additional setback is applied only along a boundary with the NIMT. It does not apply elsewhere within the Precinct or zone and does not apply in addition to the standard 1m yard that would apply under the MDRS.

Overall conclusion

It is considered that the 2.5m setback from the NIMT provided within PC50 is appropriate and will not impact on the achievement of the objectives and policies contained with the MDRS.

Larger riparian yards and planting requirements for some streams.

Objectives and Policies (existing)

Relevant AUP objectives and policies riparian yards.

The relevant AUP objectives and policies, that support larger riparian, are as shown in the table below.

AUP Chapter	Objective/Policy	Summary of matter addressed
B2 Tāhuhu whakaruruhau ā-taone - Urban growth and form	Objective B2.7.1(2)	Public access to and along Auckland’s coastline, coastal marine area, lakes, rivers, streams and wetlands is maintained and enhanced.
	Policy B2.7.2(9)	Enable public access to lakes, rivers, streams, wetlands and the coastal marine area by enabling public facilities and by seeking agreements with private landowners where appropriate.
B7 Toitū te whenua, toitū te taiao – Natural resources	Objective B7.3.1(1)	Degraded freshwater systems are enhanced.

	Objective B7.3.1(2)	Loss of freshwater systems is minimised.
	Objective B7.3.1(3)	The adverse effects of changes in land use on freshwater are avoided, remedied or mitigated.
	Policy B7.3.2(1)	(1) Integrate the management of subdivision, use and development and freshwater systems by undertaking all of the following: (a) ensuring water supply, stormwater and wastewater infrastructure is adequately provided for in areas of new growth or intensification; (b) ensuring catchment management plans form part of the structure planning process; (c) controlling the use of land and discharges to minimise the adverse effects of runoff on freshwater systems and progressively reduce existing adverse effects where those systems or water are degraded; and (d) avoiding development where it will significantly increase adverse effects on freshwater systems, unless these adverse effects can be adequately mitigated.
	Policy B7.3.2(4)	(4) Avoid the permanent loss and significant modification or diversion of lakes, rivers, streams (excluding ephemeral streams), and wetlands and their margins, unless all of the following apply: (a) it is necessary to provide for: (i) the health and safety of communities; or (ii) the enhancement and restoration of freshwater systems and values; or (iii) the sustainable use of land and resources to

		<p>provide for growth and development; or</p> <p>(iv) infrastructure;</p> <p>(b) no practicable alternative exists;</p> <p>(c) mitigation measures are implemented to address the adverse effects arising from the loss in freshwater system functions and values; and</p> <p>(d) where adverse effects cannot be adequately mitigated, environmental benefits including on-site or off-site works are provided.</p>
	Policy B7.3.2(6)	Restore and enhance freshwater systems where practicable when development, change of land use, and subdivision occur.
	Policy B7.4.2(6)	Progressively improve water quality in areas identified as having degraded water quality through managing subdivision, use, development and discharges.
E3 Lakes, rivers, streams and wetlands	Objective E3.2(2)	Auckland's lakes, rivers, streams and wetlands are restored, maintained or enhanced.
	Policy E3.3(15)	<p>Protect the riparian margins of lakes, rivers, streams, and wetlands from inappropriate use and development and promote their enhancement to through all of the following:</p> <p>(a) safeguard habitats for fish, plant and other aquatic species, particularly in rivers and streams with high ecological values;</p> <p>(b) safeguard their aesthetic, landscape and natural character values;</p> <p>(c) safeguard the contribution of natural freshwater systems to the</p>

		biodiversity, resilience and integrity of ecosystems; and (d) avoid or mitigate the effects of flooding, surface erosion, stormwater contamination, bank erosion and increased surface water temperature.
	Policy E3.2(16)	Protect land alongside streams for public access through the use of esplanade reserves and esplanade strips, marginal strips, drainage reserves, easements or covenants where appropriate and for water quality, ecological and landscape protection purposes.
E38 Subdivision - Urban	Objective E38.2(3)	Land is vested to provide for esplanades reserves, roads, stormwater, infrastructure and other purposes.
	Policy E38.3.24	Require esplanade reserves or strips when subdividing land adjoining the coast and other qualifying water-bodies.
	Policy E38.3.25	Avoid reducing the width of esplanade reserve or strip, or the waiving of the requirement to provide an esplanade reserve or strip, except where any of the following apply: (a) safe public access and recreational use is already possible and can be maintained for the future; (b) the maintenance and enhancement of the natural functioning and water quality of the adjoining sea, river or other water body will not be adversely affected; (c) the land and water-based habitats on, and adjoining, the subject land area will not be adversely affected;

		<p>(d) the natural values, geological features and landscape features will not be adversely affected;</p> <p>(e) any scheduled historic heritage places and sites and places of significance to Mana Whenua will not be adversely affected;</p> <p>(f) it can be demonstrated that the reduced width of the esplanade reserve or strip is sufficient to manage the risk of adverse effects resulting from natural hazards, taking into account the likely long term effects of climate change;</p> <p>(g) it can be demonstrated that a full width esplanade reserve or strip is not required to maintain the natural character and amenity of the coastal environment;</p> <p>(h) a reduced width in certain locations can be offset by an increase in width in other locations or areas which would result in a positive public benefit, in terms of access and recreation;</p> <p>(i) restrictions on public access are necessary to ensure a level of security for business activities in limited circumstances having regard to the policies in B8.4 relating to public access and open space in the coastal marine area; or</p> <p>(j) direct access to the sea or other water body is required for a business activity in limited circumstances.</p>
	Policy E38.3.26	<p>Require esplanade reserves rather than esplanade strips unless any of the following apply:</p> <p>(a) land has limited conservation and recreational value;</p>

		<p>(b) conservation and historic heritage values that are present can be adequately protected in private ownership;</p> <p>(c) the opportunity to acquire an esplanade reserve is unlikely to arise but continuity of access is desirable;</p> <p>(d) creation of esplanade strips can secure public benefits and resource management objectives without alienating land from private ownership;</p> <p>(e) land is subject to natural hazards or stability issues taking into account the likely long term effects of climate change; or</p> <p>(f) a marginal strip of at least 20 metres under the Conservation Act 1987 has not been set aside on land that is Treaty Settlement Land.</p>
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As noted above the management approach in PPC50 is to require buildings to be set back 20m from any permanent or intermittent streams and that these are generally planted for a depth of 10m from the stream. It is considered that the riparian margin provisions are consistent with and are necessary to give effects to these objectives and policies.

Amendments required to district plan objectives and policies

No amendments are required to the PPC50 objectives, policies or rules in response to the MDRS or Policy 3 of the NPS-UD.

Auckland Council considers that the appropriate zoning to apply within the riparian margins of streams is one which includes the MDRS at least until the land is subdivided. Following subdivision and development it is likely that the stream margins will become esplanade reserves and eventually be zoned Open Space Zone.

Advice to the Select Committee² on the Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill, provides support for the retention of riparian margins as a method to manage effects. The advice states that ‘existing setbacks can and in some cases,, must be kept as intended’.

² Departmental Report on the Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill. Ministry for the Environment. Published 3 December 2021. Page 50.

It is considered that the retention of the riparian margin setback is appropriate within the Precinct as it will not impact on the zone (which allows greater development than in the MDRS) and is necessary to protect the streams and to provide for future esplanade reserves.

Development of Options

A number of options have been considered in regard to the Section 32 assessment of the Riparian Margins within PPC50.

The options for MDRS include:

1. Do not apply the riparian margin setback as a qualifying matter i.e. remove the riparian margin rule and only apply MDRS
2. Apply the riparian margin setback as a qualifying matter (i.e. retain the PPC50 provisions)
3. Rely on objectives and policies to guide the assessment of resource consent applications on site adjacent to streams.

Option 2 is the preferred option for the application of the MDRS. Therefore in regard to the MDRS, these will be applied in full relying on the riparian margins setback rule to manage the effects of development, as it does in the decisions version of PPC50.

Consequences for development potential

On the face of it the consequences for development potential will be that land adjacent to streams will become unavailable for building. This represents a relatively significant area.

However the evidence from Mr Roberts and Ms Morgan for the applicant at the time of the plan change hearings³ indicates that the setbacks are appropriate from an ecological point of view. The riparian setback requirements are also consistent with the esplanade reserve requirements under the Resource Management act.

As this land is a 'green field' site with no infrastructure, the MDRS will apply over the entire site. However in reality the eventual zone of parts of the land affected by the riparian margins will not be residential (i.e. Open Space or road) as these areas will be set aside at subdivision. This needs to be factored into the effects of the rules on the development potential of the land.

For a typical post subdivision residential lot, the riparian rule will have little effect.

Evaluation of options

Qualifying matter	Option 1	Option 2	Option 3

³ EIC R Morgan and N Roberts 27 July 2021 Section 9.

<p>Costs of applying the QM – broader social, economic, environmental, cultural</p>	<p>QM not applied so no costs in respect of development potential.</p> <p>Based on evidence from PPC50 the removal of the riparian margin provisions would have significant ecological and environmental costs. It would also be contrary to s6 of the RMA and the of the esplanade reserve requirements of the RMA.</p>	<p>There are on the face of it some wider issue costs in applying the QM in this respect. This is because there will be land costs in land that will not be built on. However due the esplanade reserve , flooding and erosion concerns, it is unlikely that this land will be buildable in any respect.</p> <p>It is a straight forward rule that does not have a significant transaction cost and will not result in wider effects.</p>	<p>The costs of this option are more difficult to quantify as it relies on and objectives and policy regime for which the outcomes will be less certain. Potentially this approach will result in less costs in terms of land used abut additional costs in uncertainty and potentially less effectiveness of the protection for streams</p>
<p>Costs of applying QM – housing supply / capacity</p>	<p>QM not applied so no costs on housing supply and capacity.</p>	<p>The costs of applying the QM in respect of the land relates to the reduction in buildable land within the precinct. However as noted above this cost is not real in that the land could not be built on due to other constraints.</p>	<p>The costs of this option are more difficult to quantify as it relies on and objectives and policy regime for which the outcomes will be less certain. Potentially this approach will result in about the same costs in terms of land used due to other limitations on building in stream margins but additional costs in uncertainty and potentially less effectiveness of the protection of streams</p>
<p>Benefits of the QM – broader social, economic, environmental, cultural</p>	<p>The benefits of not applying the QM in this respect relate to potentially additional area of buildable land being enabled.</p> <p>However in reality this would not be realisable in some cases due to the esplanade reserve provisions and the</p>	<p>The benefits of the QM relate to the environmental and ecological benefits of protecting the stream margins.</p> <p>There are also amenity benefits to future residents of having access to and long the streams and planted</p>	<p>This option is likely to have some benefits in respect of the protection of streams but these are likely to be less than applying the QM. This is due to the less certain nature and effects on any measure taken to meet the objectives and policies in any particular application.</p>

	inability to build in places likely to flood or be subject erosion.	areas within their neighbourhood.	
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Risks of acting or not acting.

The main risk associated with the riparian margin requirement is the potential for degradation of streams in the precinct.

The risks associated with acting is a reduction on the buildable area within the zone. The consequences of this risk is small as due to the requirements to avoid areas that flood and the RMA requirements concerning esplanade reserves.

Extent to which MDRS are modified

This section provides description of how MDRS are modified only to the extent necessary to accommodate the qualifying matter and how the modifications apply to spatial layers relating to overlays, precincts, specific controls and development areas (s77J(4)(b) RMA. The additional setback is applied only along streams in the Precinct. This is somewhat a result of the greenfield nature of the precinct. Once the land is subdivided the riparian margins requirement will likely have no effect on the development compared to the MDRS.

Overall conclusion

It is considered that the riparian margins provisions within PC50 are appropriate and will not impact on the achievement of the objectives and policies contained within the MDRS.

Transport Infrastructure Triggers

Objectives and Policies (existing)

Relevant AUP objectives and policies Transport Infrastructure Triggers.

The relevant AUP objectives and policies, that support the *Transport Infrastructure Triggers*, are as shown in the table below.

AUP Chapter	Objective/Policy	Summary of matter addressed
B2 Tāhuhu whakaruruhau ā-taone - Urban growth and form [rps]	Objective B.2.2.1	(1) A quality compact urban form that enables all of the following: (c) better use of existing infrastructure and efficient provision of new infrastructure;

		(d) improved and more effective public transport;
	Policy B2.2.2(7)	(7) Enable rezoning of land within the Rural Urban Boundary or other land zoned future urban to accommodate urban growth in ways that do all of the following: (c) integrate with the provision of infrastructure;
	Objective B2.3.1(1)	(1) A quality built environment where subdivision, use and development do all of the following: (d) maximise resource and infrastructure efficiency;
B3. Ngā pūnaha hanganga, kawekawe me ngā pūngao - Infrastructure, transport and energy	Objective B3.2.1(5)	Infrastructure planning and land use planning are integrated to service growth efficiently.
	Objective B3.3.1(1)	Effective, efficient and safe transport that: (b) integrates with and supports a quality compact urban form;
	Policy B3.3.2(5)	Improve the integration of land use and transport by: (a) ensuring transport infrastructure is planned, funded and staged to integrate with urban growth; (b) encouraging land use development and patterns that reduce the rate of growth in demand for private vehicle trips, especially during peak periods; (c) locating high trip-generating activities so that they can be efficiently served by key public transport services and routes and complement

		<p>surrounding activities by supporting accessibility to a range of transport modes;</p> <p>(d) requiring proposals for high trip-generating activities which are not located in centres or on corridors or at public transport nodes to avoid, remedy or mitigate adverse effects on the transport network;</p> <p>(e) enabling the supply of parking and associated activities to reflect the demand while taking into account any adverse effects on the transport system; and</p> <p>(f) requiring activities adjacent to transport infrastructure to avoid, remedy or mitigate effects which may compromise the efficient and safe operation of such infrastructure.</p>
E27 Transport	Objective E27.2(1)	<p>Land use and all modes of transport are integrated in a manner that enables:</p> <p>(a) the benefits of an integrated transport network to be realised; and</p> <p>(b) the adverse effects of traffic generation on the transport network to be managed.</p>

As noted above PPC50 provides that development is restricted in a number of steps until various required pieces of roading infrastructure are provided. This approach and the stages and dwelling numbers are common to PPCs 48, 49 and 50.

Amendments required to district plan objectives and policies

No amendments are required to the PPC50 objectives, policies or rules in response to the MDRS or Policy 3 of the NPS-UD to achieve this QM.

It is noted that in its decision on PPC50 the hearing panel concluded as follows:

- *We are satisfied that the transport infrastructure related upgrades identified by the Applicant are those necessary to address the adverse effects from PC 50, and those necessary to give effect to the statutory planning documents.*

- *The Staging of Development with Transport Upgrades provisions, and the other associated precinct provisions are appropriate and workable and will ensure the necessary transport infrastructure related upgrades are provided prior to or at the same time as subdivision and or development.*

The transport staging provisions do not prevent development in accordance with the MDRS but will limit development to certain ceiling numbers of dwellings until such time as the transport upgrades are put in place.

Development of Options

A number of options have been considered in regard to the assessment of the transportation triggers within PPC50.

The options for MDRS include:

1. Do not apply the transport trigger rule.
2. Apply the transport trigger rule as a qualifying matter (i.e. retain the PPC50 provisions)
3. Rely on objectives and policies to guide the assessment of resource consent applications.
4. Reduce extent of zoning to better align with effects on current roading network

Option 2 is the preferred option for the application of the MDRS.

Consequences for development potential

The consequences for the development potential of the land will be that development is delayed until the infrastructure required at different trigger points is provided. If the infrastructure is not provided additional consents are required to manage the effects of the additional development on the roading network. The trigger rule does not reduce the density provided by the roading, instead it delays the development until such time as the relevant transport upgrades are provided or until an additional assessment of the effects of development on the transport network is undertaken and potentially alternative solutions found.

Evaluation of options

Qualifying matter	Option 1	Option 2	Option 3	Option 4
Costs of applying the QM – broader social, economic, environmental, cultural	QM not applied so no costs in respect of development potential.	There are no wider issue costs in applying the QM in this respect.	The costs of this option are more difficult to quantify as it relies on and objectives and policy regime for which the	Broad costs of reduced overall development and economic potential without further plan

	Based on the evidence accepted by the hearing Commissioners on PC50 the staging triggers are necessary to ensure that adverse effects are avoided or mitigated. This means that there will be wider environmental costs if the triggers are not provided.		outcomes will be less certain. Due to a reliance on the resource consent process without specific triggers there will be additional costs of uncertainty and transaction..	changes in the future.
Costs of applying QM – housing supply / capacity	QM not applied so no costs on housing supply and capacity.	The costs of applying the QM in respect of the land relates to the speed of the build out or achievement of the capacity. The rule does not in itself impose a cost on the developer of providing the infrastructure upgrades.	See above	QM would not need to be applied with reduced developable area. However housing supply would be reduced even if roading network improvements made.
Benefits of the QM – broader social, economic, environmental, cultural	The benefits of not applying the QM in this respect relate to a potentially faster build out of the same capacity but at a significant cost.	The benefits of the QM relate to the avoidance or mitigation of adverse effects on the wider transport network. There are likely to be significant benefits to the	There may be benefits to this option. However it will provide more flexibility of achieving a particular transportation solution commensurate with the level of development proposed, any flexibility will be gained at the	This option would have a similar effects on the transpiration network as option 2.

		community and the economy from a functioning transport system.	expense of certainty of outcome.	
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Risks of acting or not acting.

It is considered that there are considerable risks in not retaining the triggers. The triggers are an important and integral part of PC50. The decision report on PPC50 essentially made the choice between approving the plan change with triggers, not approving the plan change or approving a reduced plan change. Therefore if the triggers are not retained within PPC 50, the plan change may become untenable (i.e. not resulting in any additional development capacity) of a reduced area of residentially zoned land.

The risk of including the transportation triggers as a QM is that development will slow rather than not occur. There is also a risk that the full potential of the zoning may not be realised because lower intensity development will become more attractive so as to avoid the trigger volumes of housing. However, underdevelopment, if it does occur will likely be a result of a complex array of factors including demand, building costs, costs of transport upgrades, the attractiveness of upgraded rail transport and consumer preferences in this location.

Extent to which MDRS are modified

This section provides description of how MDRS are modified only to the extent necessary to accommodate the qualifying matter and how the modifications apply to spatial layers relating to overlays, precincts, specific controls and development areas (s77J(4)(b) RMA. The MDRS themselves will not be modified. However the transportation triggers may result in the development enabled by the MDRS being delayed until infrastructure is provided.

Evaluation under s77L

Section 77L requires the following in any evaluation in respect of the transportation triggers.

- (a) identifies 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; and*
- (b) justifies 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; and*
- (c) includes a site-specific analysis that—*
 - (i) identifies the site to which the matter relates; and*
 - (ii) evaluates the specific characteristic on a site-specific basis to determine the geographic area where intensification needs to be compatible with the specific matter; and*

(iii) 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.

In respect of these matters the following area noted.

Specific Characteristic

The special characteristic that makes the level of development inappropriate within the Waihoehoe Precinct is that until the transportation infrastructure as set out in PPC50 is provided the amount of residential development is required to be limited to avoid adverse effects on the overall transportation network.

Site Specific Evaluation

The specific sites affected are those within the Waihoehoe Precinct (and the Drury Centre Precinct and the Drury East Precinct). The full evaluation of the need for the trigger rules are set out in the decision on PPC50 and the traffic modelling and other evidence that the decision relied on. This material is not repeated here but is referenced below.

Options

A range of options were evaluated in the table above. These reflect the options evaluated in the PPC50 decision report.

Conclusion

It is considered that the option of providing trigger provisions within PPC50 that may delay the full realisation of the development potential provided by the MDRS is the most appropriate option.

Consent requirements for development prior to subdivision

Objectives and Policies (existing)

Relevant AUP objectives and policies.

The relevant AUP objectives and policies, that support the additional consent requirements prior to subdivision are as shown in the table below:

AUP Chapter	Objective/Policy	Summary of matter addressed
B2 Tāhuhu whakaruruhau ā-taone - Urban growth and form [rps]	Objective B.2.2.1	(1) A quality compact urban form that enables all of the following: (c) better use of existing infrastructure and efficient provision of new infrastructure; (d) improved and more effective public transport;

	Policy B2.2.2(7)	(7) Enable rezoning of land within the Rural Urban Boundary or other land zoned future urban to accommodate urban growth in ways that do all of the following: (c) integrate with the provision of infrastructure;
	Objective B2.3.1(1)	(1) A quality built environment where subdivision, use and development do all of the following: (d) maximise resource and infrastructure efficiency;
	Policy B2.3.2(1)	(1) Manage the form and design of subdivision, use and development so that it does all of the following: (a) supports the planned future environment, including its shape, landform, outlook, location and relationship to its surroundings, including landscape and heritage; (b) contributes to the safety of the site, street and neighbourhood; (c) develops street networks and block patterns that provide good access and enable a range of travel options; (d) achieves a high level of amenity and safety for pedestrians and cyclists; (e) meets the functional, and operational needs of the intended use; and (f) allows for change and enables innovative design and adaptive re-use.
	Policy B2.4.2(6)	(6) Ensure development is adequately serviced by existing infrastructure or is provided with infrastructure

		prior to or at the same time as residential intensification.
	Policy B2.4.2(8)	(8) Recognise and provide for existing and planned neighbourhood character through the use of place-based planning tools.
B3. Ngā pūnaha hanganga, kawekawe me ngā pūngao - Infrastructure, transport and energy	Objective B3.2.1(5)	Infrastructure planning and land use planning are integrated to service growth efficiently.
	Policy B3.2.2(5)	(5) Ensure subdivision, use and development do not occur in a location or form that constrains the development, operation, maintenance and upgrading of existing and planned infrastructure.
	Objective B3.3.1(1)	Effective, efficient and safe transport that: (b) integrates with and supports a quality compact urban form;
	Policy B3.3.2(5)	Improve the integration of land use and transport by: (a) ensuring transport infrastructure is planned, funded and staged to integrate with urban growth; (b) encouraging land use development and patterns that reduce the rate of growth in demand for private vehicle trips, especially during peak periods; (c) locating high trip-generating activities so that they can be efficiently served by key public transport services and routes and complement surrounding activities by supporting accessibility to a range of transport modes; (d) requiring proposals for high trip-generating

		<p>activities which are not located in centres or on corridors or at public transport nodes to avoid, remedy or mitigate adverse effects on the transport network;</p> <p>(e) enabling the supply of parking and associated activities to reflect the demand while taking into account any adverse effects on the transport system; and</p> <p>(f) requiring activities adjacent to transport infrastructure to avoid, remedy or mitigate effects which may compromise the efficient and safe operation of such infrastructure.</p>
E27 Transport	Objective E27.2(1)	<p>Land use and all modes of transport are integrated in a manner that enables:</p> <p>(a) the benefits of an integrated transport network to be realised; and</p> <p>(b) the adverse effects of traffic generation on the transport network to be managed.</p>

As noted above PPC50 provides for various new roads and some existing roads may have to be widened to accommodate the roads required by the table in Appendix 1. New permitted development may prevent such roads being created or widened if located incorrectly.

Amendments required to district plan objectives and policies

No amendments are required to the PPC50 objectives, policies or rules in response to the MDRS or Policy 3 of the NPS-UD to achieve this QM.

The precinct layout provisions do not prevent development in accordance with the MDRS but will place some additional direction on where development may occur if new roading or road widening set out in the Precinct conflicts with proposed new development.

Development of Options

A number of options have been considered in regard to the Section 32 assessment of the requirement for consent prior to subdivision within PPC50.

The options for MDRS include:

1. Do not apply the precinct compliance rule.
2. Apply the precinct compliance rule as a qualifying matter (i.e. retain the PPC50 provisions)

Option 2 is the preferred option for the application of the MDRS.

Consequences for development potential

The consequences for the development potential of the land will be that development is constrained to avoid largely new roads and areas where roads may need to be widened. This will not result in a reduction in the possible intensity of development overall within the Precinct, as the roads will need to be provided to give access to houses regardless. The rule directs where these should go and will not result in a decrease in development potential over the precinct.

Evaluation of options

Qualifying matter	Option 1	Option 2
Costs of applying the QM – broader social, economic, environmental, cultural	QM not applied so no costs in respect of development potential. However there will be costs in respect of inefficiencies in the layout of the precinct and the potential difficulties in achieving roading connections or road widening within the precinct.	There are no wider issue costs in applying the QM in this respect.
Costs of applying QM – housing supply / capacity	QM not applied so no costs on housing supply and capacity.	It is considered that no costs are imposed in respect of housing capacity- as roads have to be provided regardless, and the rule merely

		aims to ensure they can be located in appropriate locations.
Benefits of the QM – broader social, economic, environmental, cultural	The benefits of not applying the QM in this respect relate to more freedom about where to locate dwellings but at the cost of inefficiency and	The benefits of the QM relate to the ability to implement the trading infrastructure within the precinct in an orderly and efficient manner that gives effect to the precinct plan.

Risks of acting or not acting.

It is considered that there are risks in not retaining the control over development prior to subdivision. It is noted that vacant site subdivision is subject to the same rule but this does not impact on the MDRS. This rule is used to align the development occurring within the precinct with the precinct plan. If the QM is not included then there is a risk that the precinct will not develop as intended and the necessary provision and upgrading of infrastructure will be thwarted.

There is little risk in including the QM within the precinct. This is because the precinct rule does not reduce development potential, it merely directs where that potential can go as the roads will have to be provided within the precinct to serve any new development. It is noted that in respect of development this only applies to development in advance of subdivision and in practice it will affect little if any actual development.

Extent to which MDRS are modified

This section provides description of how MDRS are modified only to the extent necessary to accommodate the qualifying matter and how the modifications apply to spatial layers relating to overlays, precincts, specific controls and development areas (s77J(4)(b) RMA. The MDRS themselves will not be modified. However the precinct compliance rule may result in the development being located differently if the QM was not applied.

Evaluation under s77L

Section 77L requires the following in any evaluation in respect of the precinct compliance rule.

- (a) identifies 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; and

(b) justifies 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; and

(c) includes a site-specific analysis that—

1. (i) identifies the site to which the matter relates; and
2. (ii) evaluates the specific characteristic on a site-specific basis to determine the geographic area where intensification needs to be compatible with the specific matter; and
3. (iii) 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.

In respect of these matters the following are noted.

Specific Characteristic

The special characteristic that makes the level of development inappropriate within the precinct is that because the precinct relates to a greenfield area, the location of residential development is required to be directed to avoid adverse effects on the development of an integrated roading pattern within the precinct as intended by the precinct plan.

Site Specific Evaluation

The specific sites affected are all those sites within the precinct. The full evaluation of the need for the rules are set out in the background to and the decision on PPC50 and the evidence that the decision relied on. This material is not repeated here but is referenced below.

Options

A range of options have been evaluated in the table above.

Information Used

1. Outline and refer to the list of reports, documents, evidence, plan versions et al that you used to help with the development of the plan change and assessment of the (these could be listed below in a table form).

Name of document, report, plan	How did it inform the development of the plan change
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Decision on PPC50	This document sets out the basis for the decision version of PC50.'
PPC 50	This sets out the plan change being amended
Evidence provided to PPC50 hearing	These documents set out the reasoning and provide detailed justifications for many of the provisions contained within PPC50.
Auckland Unitary Plan (Operative in Part) including Regional Policy Statement	This provided guidance to the evaluation of provisions.
National Policy Statement – Urban Development	This provided guidance to the evaluation of provisions

Consultation

Consultation with Mana Whenua is currently ongoing. This report will be updated accordingly

Report Conclusion

Overall it is concluded that VAR2 is the most appropriate means of achieving the implementation of the MDRS within PPC50 and the Waihoehoe Precinct. VAR2 will allow for the operation of the MDRS while maintaining the newly established guiding provisions of the Waihoehoe Precinct for future development of this land. In addition it is considered that following evaluation the qualifying matters relating to the NIMT Yard, Riparian Margins, development prior to subdivision and transportation triggers are justified and appropriate.

