

# Proposed Plan Change 78 (PC78)

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to the Auckland Unitary Plan (Operative in part)

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

**EVALUATION REPORT for qualifying matter s77I(a) and (d)**

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| <ul style="list-style-type: none"><li>(a) a matter of national importance that decision makers are required to recognise and provide for under section 6</li><li>(d) a matter required to give effect to the Hauraki Gulf Marine Park Act 2000 and the Wāitakere Ranges Heritage Area Act 2008</li></ul> |
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Wāitakere Ranges Heritage Area

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## Executive Summary

This report discusses the implications of applying D12 - Waitākere Ranges Heritage Area overlay (WRHA) as a qualifying matter to the medium density residential standards (MDRS) of Schedule 3A of the RMA and the implementation of policy 3 of the National Policy Statement – Urban Development (NPS-UD) – updated May 2022.

The Waitākere Ranges Heritage Area overlay (D12) is a Qualifying Matter in accordance with the following sections of s77I of the RMA:

*(a) a matter of national importance that decision makers are required to recognise and provide for under section 6:*

*(d) a matter required to give effect to the Hauraki Gulf Marine Park Act 2000 or the Waitākere Ranges Heritage Area Act 2008:*

There are less than 30 properties protected by the WRHA that are affected by the required intensification of MRDS and only one property affected by Policy 3 of NPS-UD (updated May 2022). The properties affected by MDRS are currently zoned Residential Single House (SH) zone in the Auckland Unitary Plan (Operative in Part) which is a low-density residential zone providing for the development of single houses at one-two storeys for each property. This zone is prevalent in the urban area adjoining the WRHA overlay both supporting the overlay and its edge by limiting pressure from intensification on the heritage area and reflects the local legacy of urban development that respects and protects the environment.

Given that the MDRS are required to be incorporated into every relevant residential zone enabling three dwellings of 2-3 storeys to be built as a permitted activity, the SH zone has become redundant within the Rural Urban Boundary. Subsequently its role in limiting intensification is lost.

Council proposes a new low-density zone to directly apply where certain qualifying matters preside to support them in carrying out their role in protecting, maintaining and/or enhancing the environment, landscape and/or specific feature. This zone H3A - Residential – Low Density Residential Zone is recommended to protect these few properties within the WRHA.

The property affected by NPS-UD Policy 3 (updated May 2022) is zoned Residential - Large Lot (LL) and is situated within the walkable catchment area for the Swanson Rail station. In this location the property is permitted to build to a height of at least six stories. The LL zone permits a height of 8m (plus 1m for roof structure) and is not subject to the MDRS. Furthermore, the property is subject to an Overlay Subdivision plan (D12.9) which restricts development of the property and specifically restricts height to reflect the location of the property within the heritage area and in proximity to the Swanson rail station. Despite being situated inside the walkable catchment Council recommends that the underlying LL zone be retained for this property to support and protect the edge of the heritage area.

This qualifying matter seeks minor amendments to D12 to incorporate reference to the H3A zone to support the function of the overlay. It also seeks consequential amendments to H3A to incorporate relevant waterbody yards and maximum impervious surface provisions. No adjustments of the extent of the overlay are sought.

## Introduction

This report is prepared as part of the evaluation required by Section 32 and Sections 77I and 77Q of the Resource Management Act 1991 ('the Act') for proposed Plan Change 78 (**PP78**) to the Auckland Unitary Plan (Operative in Part) (**AUP**).

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

This report discusses the implications of applying D12 Waitākere Ranges Heritage Area overlay as a qualifying matter to the medium density residential standards (MDRS) of Schedule 3A of the RMA and the implementation of policy 3 of the NPS-UD (updated May 2022).

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

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

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

## Integrated evaluation for existing qualifying matters

For the purposes of PC78, evaluation of D12 as an existing qualifying matter has been undertaken in an integrated way that combines s32 and s77K / 77Q requirements. The report follows the evaluation approach described in the table below.

Preparation of this report has involved the following:

- review of the AUP to identify all relevant provisions that apply to this qualifying matter
- assessment of the identified relevant provisions within the AUP relating to D12 against the MDRS in accordance with Schedule 3A of the RMA
- development of draft amendments to the operative district plan provisions of the AUP to implement this matter as a Qualifying Matter in accordance with s77I(a) and (d)
- review of the AUP to identify all relevant provisions that require a consequential amendment to integrate the application of this qualifying matter
- review of the AUP Maps to assess the spatial application of this qualifying matter
- section 32 options analysis for this qualifying matter and related amendments

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

This section 32/77K evaluation report will continue to be refined in response to any submissions (and technical evidence that supports those submissions) provided to the council, and in response to any other new information received.

## Table 1 Integrated approach

Standard sec 32 steps	Plus sec 77K / 77Q steps for existing qualifying matter
Issue  Define the problem- provide overview/summary providing an analysis of the qualifying matter	Sec 77K or 77Q (1) (a)  Describe the qualifying matter.  Identify by location (for example, by mapping) where an existing qualifying matter applies
Identify and discuss objectives / outcomes	Sec 77K or 77Q(1) ( c )  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 77k or 77Q (1) (b)  Consider a range of alternative density standards for those areas having considered the particular MDRS standards and/or NPSUD Policy 3 (updated May 2022) intensification requirements
Collect information on the selected option(s)	Sec 77K or Q (1) (d)  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 NPSUD policy 3 (updated May 2022) having regard to the modified zone, with regard to the identified density options
Evaluate option(s) - environmental, social, economic, cultural benefits and costs	Sec 77K or Q (1) (b)  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

## Issues

The Waitākere Ranges Heritage Area overlay (D12) is a Qualifying Matter in relation to the relevant residential zones of the AUP in accordance with the following sections of s77I of the RMA:

*(a) a matter of national importance that decision makers are required to recognise and provide for under section 6:*

*(d) a matter required to give effect to the Hauraki Gulf Marine Park Act 2000 or the Waitākere Ranges Heritage Area Act 2008:*

The Waitākere Ranges Heritage Area overlay gives effect to the purpose and objectives of the Waitākere Ranges Heritage Area Act 2008 (WRHAA) – appended as Attachment One.

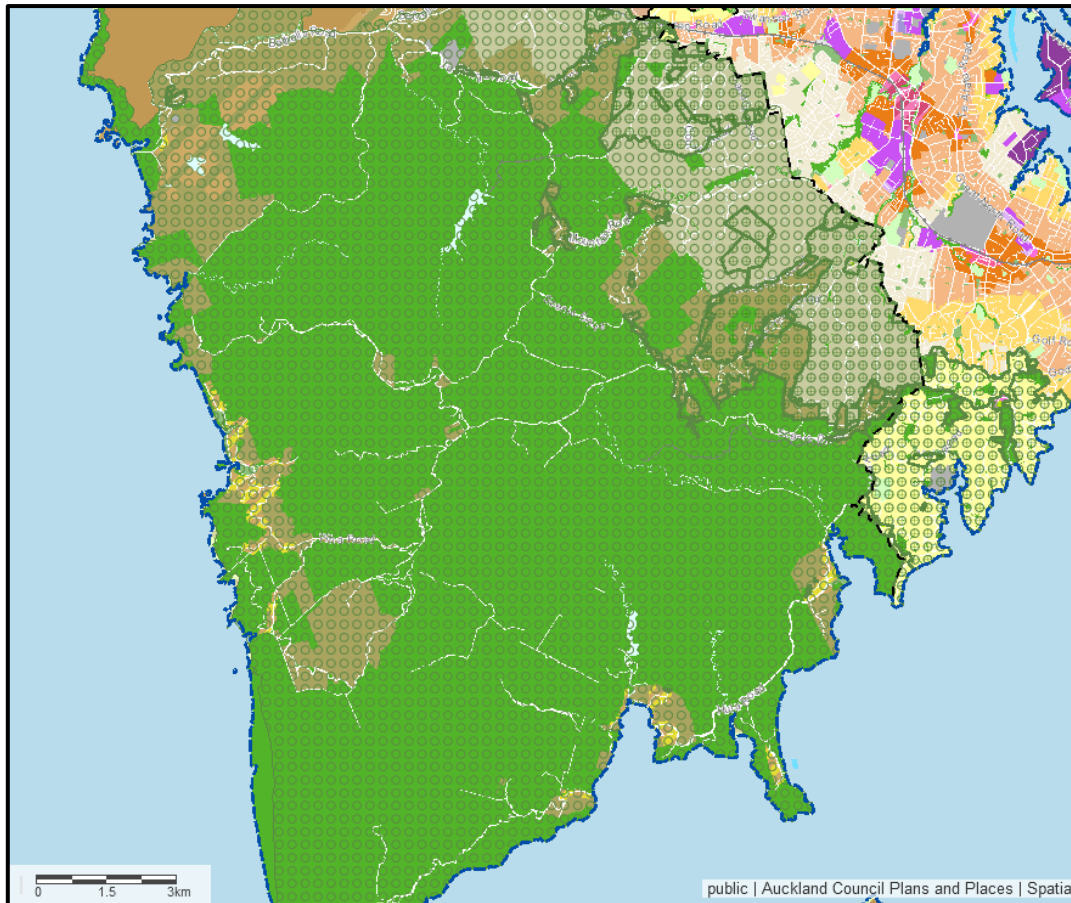
The WRHAA:

- a. establishes the boundary of the heritage area (Schedule 1 to the WRHAA);
- b. states the national significance of the heritage area and defines its heritage features;
- c. specifies the objectives of establishing and maintaining the heritage area;
- d. requires the council to give effect to the Act's purpose and objectives in plan development at both regional and district levels and when considering discretionary and non-complying resource consent applications; and
- e. provides additional matters for council to consider when making a decision, exercising a power or carrying out a duty that relates to the heritage area.

The area covered by the overlay directly corresponds with the area that is shown Map 1 of Schedule 1 of the WRHAA. The overlay is displayed as a Natural Heritage Management layer in GIS. **Figure 1** below displays the overlay when activated – displayed as green circles.

The overlay also gives effect to Chapter B4.4 Natural Heritage of the AUP which recognises the Waitākere Ranges Heritage Area as a matter of regional significance describing the ranges as an important backdrop to metropolitan Auckland and as outstanding for their ecosystems. The overlay divides the heritage area into Subdivision Scheduled Areas/ Sites which prescribe additional subdivision standards when subdividing in the specified areas/sites. These are recorded in Schedule 16 of the AUP (Waitākere Ranges Heritage Area Overlay Subdivision Scheduled Areas/ Sites). Relevant areas are expanded on in this report. It is noted that the objectives, policies and standards in E38 Subdivision – Urban and E39 Subdivision – Rural also apply to subdivision in these areas unless otherwise specified.

The overlay predominantly sits outside the Rural Urban Boundary where it is largely supported by Chapters H20 Rural - Waitākere Ranges zone and H21 Rural – Waitākere Foothills zone. This rural based portion of the overlay is not subject to the intensification recommended to be enabled by the NPS-UD/MDRS.



**Figure 1: Waitākere Ranges Heritage Area overlay extent**

Chapter B2.2 of the AUP (Urban growth and form) carefully considers the location of the RUB in seeking to achieve sufficient development capacity within the urban environment while *protecting the natural and physical resources that have been scheduled in the Unitary Plan in relation to natural heritage, Mana whenua, natural resources, etc*<sup>1</sup>. As noted earlier the Waitākere Ranges Heritage Area (WRHA) is contained in Schedule 16 of the AUP and is therefore specifically considered for protection under Policy B2.2.2 (2)(h) of this chapter. Subsequently the majority of the WRHA is located outside the RUB reducing the pressures from urban intensification.

The area within the RUB is predominantly zoned Residential – Large Lot zone (LL) and Residential – Single House zone (SH) which currently represent the low-density zones of the AUP providing for larger lot sizes and single dwellings of 1-2 storeys. The SH zone is also predominant in the adjoining urban area outside the heritage area, mixed with some areas of Residential – Mixed Housing Suburban (MHS) (refer **Figure 2** below). These zones reflect the local legacy of protection for the forest and coastal area of the Waitākere Ranges area both inside and outside the overlay area. While not a requirement of the overlay these urban zones support it and provide a buffer or transition area between the WRHA and the Auckland urban environment and within the overlay between the urban and rural properties.

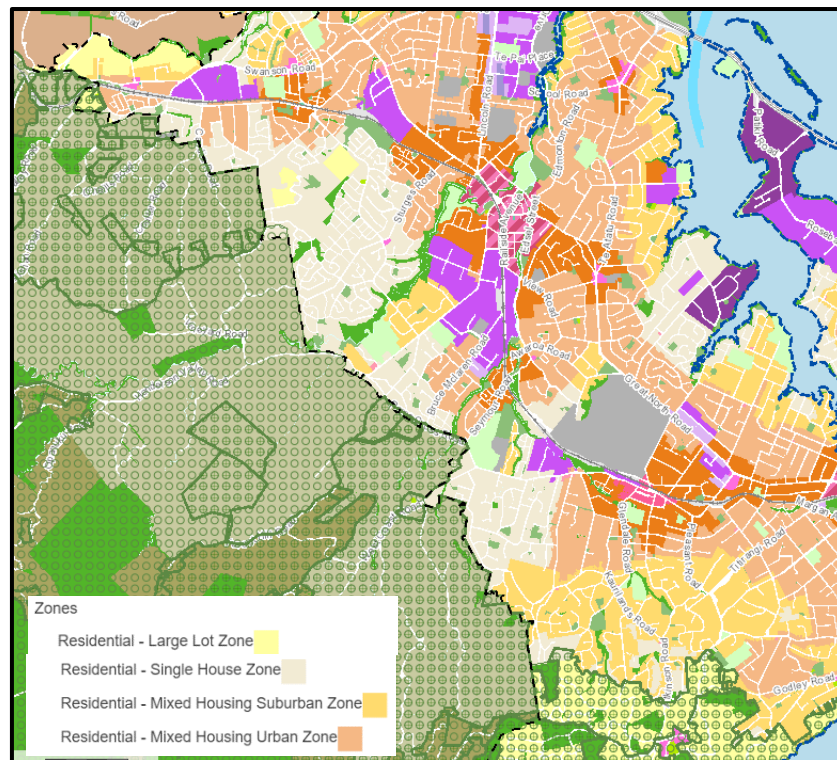
There are also a number of Significant Ecological Areas (SEAs) within these adjoining urban areas both inside and outside the WRHA. SEA's protect and manage the unique and significant biodiversity of the Auckland region and in this instance reflect the legacy of protection afforded the general area. Supporting provisions in Chapter E12 Land disturbance – district require a RDA resource consent for the removal of more than 5m<sup>2</sup> of earth.

<sup>1</sup> AUP Chapter B2.2.2(2)(h) Development capacity and supply of land for urban development, pg2.



Provisions in Chapter E15 Vegetation management and biodiversity require a CA resource consent for the removal of native vegetation for the creation of a building platform and driveway.

It is also worth noting that these SEA's are generally supported by the underlying low density zone (SH) which as explained above, acts to reduce the level of development in the area protected by the SEA. SEA's are also a qualifying matter and are being assessed separately.



**Figure 2 – the current AUP urban zones adjoining the RUB/WRHA overlay**

There are also a number of Open Space – Conservation zoned properties within the WRHA within the RUB amongst the Large Lot properties around Titirangi village. This zone is applied to open spaces with natural, ecological, landscape, and cultural and historic heritage values, including bush reserves that have a key role in protecting and increasing the populations of threatened and endangered species. The presence of these zones in this urban area protected by the WRHA further reflects the historical and ongoing importance of this area in regard to the unique biodiversity and in creating a buffer from the urban environment.

Open space zones are also a qualifying matter being assessed separately.

It is also significant to note that the heritage area holds a distinctive cultural domain for Maori and lies within the rohe of both Te Kawerau A Maki and Ngati Whatua<sup>2</sup>. This relationship is specifically acknowledged as a heritage feature that contributes to the national significance of the area:

*(j) the historical, traditional, and cultural relationships of people, communities, and tangata whenua with the area and their exercise of kaitiakitanga*

*and stewardship:*

<sup>2</sup> Waitākere Ranges Heritage Area Act 2008. Pg.3.



There are no sites of significance within the urban area of the WRHA that is subject to this IPI. However, mana whenua have been included in the discussion regarding the recommended approach for the WRHA overlay and the specific properties. They generally support the recommendations of this report (expanded on below) but express concerns for the edge of the overlay, seeking a buffer approach along the entire length to protect the heritage feature from incremental encroachment.

As an estimate the boundary along the length of the overlay between the urban area of Auckland and the heritage area is approximately 24 kilometres long. Of this, approximately 9.5 kilometres has a buffer of sorts created by an adjoining park or reserve, by the width of the road included at the edge of the overlay or by abutting a property that is recommended to be zoned the new low-density residential zone. Of the remaining boundary length another approximately two kilometres is also recommended to be zoned the new low-density residential zone due to the presence of the SEA's qualifying matter discussed earlier. It is significant to note that of the remainder of the boundary, the majority of the adjoining residential properties reflect the legacy of development enabled and encouraged in the area as described previously. The lot sizes reflect the current low-density residential zone and the size and type of the dwellings (predominantly large standalone single dwellings) support this. While the proposed medium density zone will enable three dwellings as a permitted activity it is not felt that this will be desired in these locations. Subsequently a buffer is not being sought to further protect the edge of the heritage area.

As discussed earlier the heritage area is divided into scheduled areas in which subdivision (and some use and development) is regulated to ensure the specific qualities of each area are protected and/or enhanced. Proposals for development within these areas can be required to provide planting plans for Indicative Enhancement areas; register covenants against titles to ensure such areas are protected and maintained; provide public walkways to be protected through registering a ROW easement in favour of Auckland Council; plans ensuring building platforms are outside areas of SEA's and registering covenants to ensure and protect these; and/or provide a landscape and ecological assessment identifying appropriate areas for development.

Subsequently, the overlay itself does not rely on or refer to the provisions for land disturbance as set out in Chapter E12 (Land disturbance – district) nor does it rely on the provisions for the management of vegetation and biodiversity as set out in Chapter E15 (Vegetation management and biodiversity). These are imposed through the underlying zone and through the SEAs in the area.

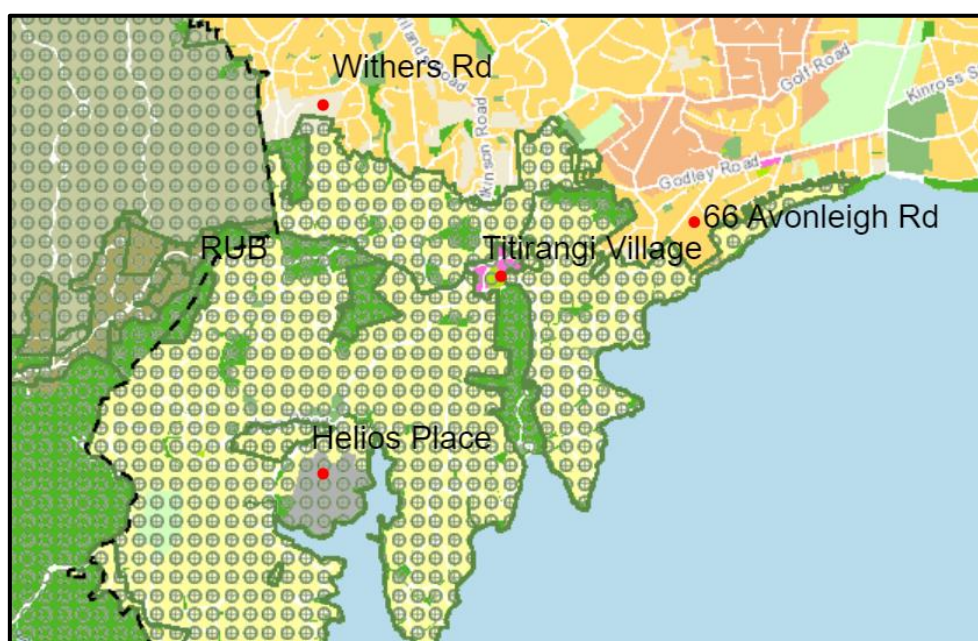
It is acknowledged that Titirangi Village does not meet the NPS-UD criteria as a walkable catchment nor does it contain 'relevant residential zones' that require modification under MDRS. Subsequently it will retain the intensification afforded by its current Business – Local Centre Zone. Also the Residential - Large Lot Zone of the AUP is not defined as a 'relevant residential zone' in accordance with the NPS-UD/ MDRS and therefore is not subject to the anticipated intensification. It will also retain its current provisions.

Otherwise, in assessing the urban extent of the WRHA there are approximately 27 properties subject to the MDRS and a single property subject to NPS-UD Policy 3 (updated May 2022). These properties are discussed here:

- 73 Withers Road, Glen Eden is a large property (approx. 8.1ha) which is partially captured by the overlay (refer **Figure 3** below) and which is also subject to SEA\_T\_2018. Zoned for Residential – Single House zone (**SH**) this site is occupied by Konini School. The school buildings and recreation areas occupy the portion of the property which is not subject to the overlay and is largely cleared of the dense vegetation. The property is included in Subdivision Scheduled Area D12.1.1.5 Titirangi

– Laingholm (North, South and West) shown on Figure D12.10.16. which specifically avoids, where practicable, the need for clearance of the native vegetation. The underlying SH zone provides a level of protection and a buffer for the vegetation on site. Despite the overlay covering approximately half of the property the recommendation will include the property as a whole.

- 66 Avonleigh Road, Green Bay (refer **Figure 3** below). This property is currently zoned Residential – Mixed Housing Suburban zone (**MHS**) and is occupied by a retirement village. The overlay partially encroaches the property along the coastal boundary which is also subject to a SEA\_T\_5539. This property is included in Figure D12.10.17 as part of the Titirangi- Laingholm (South) subdivision Plan and is clearly indicated on Map 1 of Schedule 1 of the WRHA Act.

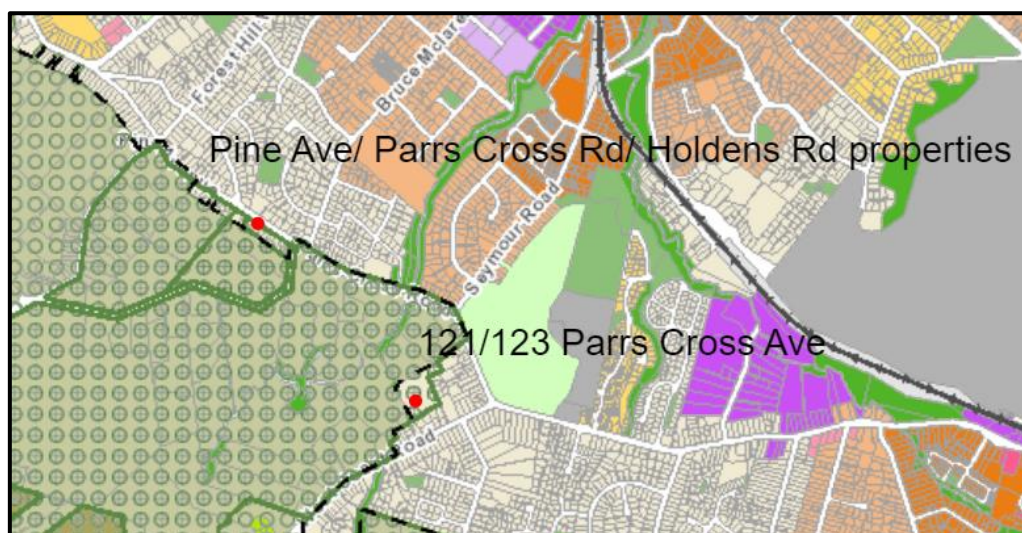


**Figure 3 – Urban based properties of the WRHA**

- 5 Helios Place, Titirangi (refer **Figure 3** above). This property is currently zoned **Special Purpose – School zone**. It is also included in Figure D12.10.17 as part of the Titirangi- Laingholm (South) subdivision Plan. The property is also subject to SEA\_T\_5539 covering approximately 90% of the property, and D15 Ridgeline Protection overlay. The resident school buildings and recreation areas occupy the only area of the property that is not subject to the SEA nor the ridgeline protection overlay.
- 293A Titirangi Road, Titirangi and 17A Autumn Avenue (not shown). These properties are currently zoned **MHS**. The overlay partially encroaches both sites and appears to be an anomaly. The property at Titirangi Road is largely developed and not subject to any other qualifying matter. It is also included Figure D12.10.17 as part of the Titirangi- Laingholm (South) subdivision Plan. The property at Autumn Avenue is largely vegetated with the single house located at the other end. Given the scale of Map 1 in Schedule 1 of the WRHA Act it is unclear if either of these properties are intended to be included in the heritage area.
- 53-73 Pine Avenue, 53 – 69 Parrs Cross Road and 1 and 3 Holdens Road, Henderson (refer **Figure 4** below). These properties are currently zoned **SH**. They are incorporated into Activity Table D12.4.2 as (A57) and (A58) and referred to as the area bounded by Holdens Road, Forest Hill Road, Pine Avenue and Parrs Cross Road. The

relevant standard D12.6.4.19 requires a minimum net site size of 4000m<sup>2</sup> for this area. These sites range from 400m<sup>2</sup> to approximately 1,100m<sup>2</sup>. The single house zone provides a level of protection to the edge of this area in limiting the intensification.

- 121-123 Parrs Cross Road, Glen Eden (refer **Figure 4** below). This property is currently zoned **SH** and is included in Figure D12.10.01 as part of the Subdivision Plan 1 - Ōrātia (Foothills). The property is currently undergoing a subdivision creating two additional sites of 600m<sup>2</sup>.



**Figure 4 – Pine Ave/ Parrs Cross Rd and Holdens Rd properties**

- 112 Simpson Road, Henderson Valley (refer **Figure 5** below). This is currently zoned **SH** and is also subject to the Ridgeline Protection overlay. There is an area of dense vegetation along the eastern side of the property. The property is not included in any specific Subdivision Scheduled area of the overlay and the SH zone is not included within the activity table. Subsequently, development of the property is subject to the provisions of the current Single House zone and Chapter E38 – Subdivision – Urban.
- 7-11 Christian Road, Swanson (refer **Figure 6** below). This property is zoned **LL** and as explained above is not a 'relevant residential zone' subject to the MDRS. However, the property is included within the walkable catchment area of the Swanson RTN and is therefore required to be intensified to enable building heights of at least six storeys in accordance with NPS-UD Policy 3(c) (updated May 2022).

The property is also subject to Subdivision Overlay Plan 12 (refer **Figure 7** below) which was specifically developed for the property to acknowledge its location at the edge of the heritage area and its proximity to the Swanson rail station. Lot sizes of 600m<sup>2</sup> are enabled at the northern end of the property nearest the station and increase in size to 1200m<sup>2</sup> and 2000m<sup>2</sup> moving up away from the station. The plan accounts for the steepness of this property moving away from Christian Road and includes areas of no development to accommodate on site infrastructure requirements and to enable a level of landscaping to compliment and support the surrounding area.

A building height of 6m is imposed on the properties of 1200m<sup>2</sup> to 2000m<sup>2</sup>, subject to a consent notice being registered against the titles of the sites.

A subdivision consent is currently being processed against the property following resource consent approval (8 Feb 2019) to develop 48 residential sites. For the most

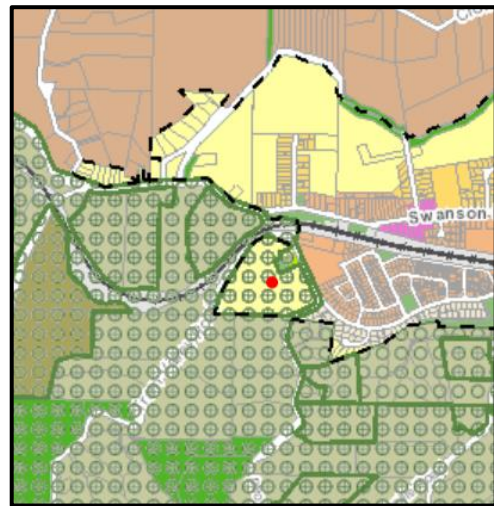


part the resource consent and complimentary subdivision consent reflect the layout of Overlay Subdivision Plan 12 with 29 properties of 600–900m<sup>2</sup> in the northern part and the rest being between 1200 and 2000m<sup>2</sup> moving away from Swanson Road. Covenants have also been registered against the titles for the larger lots restricting height to 6m and over the smaller lots restricting height in relation to boundary, building coverage, maximum impermeable surface and yard setbacks. These have been imposed to ensure the development achieves an amenity that responds to and compliments the surrounding location. The consent is currently on hold awaiting approval for the 224c Certificate.

Given the signal provided through Overlay Subdivision Plan 12 to restrict height and density on this property to support its function of providing a buffer between the features of the heritage area and the Swanson village area, and to have regard to the Waitākere Ranges Heritage Area Act 2008 the recommended intensification of NPS-UD Policy 3 (updated May 2022) is considered incompatible. It is recommended that the underlying LL zone and associated height be retained particularly as these have been considered and approved through two separate processes having regard to the WRHA Act.



**Figure 5 – 112 Simpson Road**



**Figure 6 – 7-11 Christian Rd**



**Figure 7 - Overlay Subdivision Plan 12 – 7-11 Christian Rd**

As discussed in the overview report the current low-density zones of Residential - Single House and Residential - Mixed Housing Suburban are being removed from the urban environment of Auckland. Instead, a new low-density zone is being developed with a mandate to be applied in areas subject to qualifying matters to support their function. This zone is referred to as H3A Residential – Low Density Residential zone and is being sought for the existing SH zoned properties within the urban area subject to the WRHA overlay.

In accordance with Schedule 3A of the RMA H3A is deemed a 'relevant residential' zone for Auckland and therefore is also subject to the Medium Density Residential Standards. However, these standards are included along with the other low-density standards which serve the needs of the qualifying matter by constraining intensification. Subsequently, specific standards of H3A that would support the WRHA are listed below:

- Minimum site size of 600m<sup>2</sup> and subdivision is subject to a Restricted Discretionary Activity resource consent requiring thorough consideration of the heritage features
- Two or more dwellings are subject to a Non-complying Activity resource consent – this reflects the particular amenity values of the area informed by the past
- Max height of 8m (+1m for 50percent of roof) to reduce the visual impact of structures/buildings on the heritage features

- Height in relation to boundary control for side and rear boundaries of 2.5m height and a 45degree angle measured at the boundary – also to reduce the visual impact of structures/buildings on the heritage features
- A front yard setback of 3m to support the established neighbourhood character by providing good quality on-site amenity
- A riparian yard of 10m to ensure the protection of the vegetation alongside these permanent and intermittent streams – acknowledging the holistic approach to vegetation management for the heritage area
- Building coverage of 35percent –enhancing the amenity of the area and reducing the visual impact of buildings/ structures on the heritage features
- Landscaped area of 40percent to maintain the amenity of the area

The application of this bespoke low density residential zone for the SH zoned properties the subject of this report is explored in more detail in the following sections.

Given the national and regional significance of the WRHA and the legacy of protection and management the area has been provided, it is evident that as a qualifying matter it is incompatible with the level of intensification required by MDRS and NPS-UD Policy 3 (updated May 2022) within the RUB. The residential properties within the RUB need to continue to provide a buffer for the rural based properties and against the urban area of Auckland. They are crucial in protecting and enhancing the heritage area from the anticipated level of intensification.

## Objectives and Policies (existing)

The Waitākere Ranges Heritage Area Overlay (D12) gives effect to the purpose and objectives of the Waitākere Ranges Heritage Area Act 2008 (WRHAA). The following objectives and policies of the AUP are relevant:

AUP chapter	Objective	Policy
<b>B2.2</b> Urban Growth and Form		<b>B2.2.2(2)</b> Ensure the location or any relocation of the Rural Urban Boundary identifies land suitable for urbanisation in locations that:...while <b>(h)</b> protecting the Waitākere Ranges Heritage Area and its heritage features;
<b>B2.4</b> Residential growth	<b>B2.4.1(2)</b> Residential areas are attractive, healthy and safe with quality development that is in keeping with the planned built character of the area.	<p><b>B2.4.2(4)</b> Provide for lower residential intensity in areas: (c) 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 and special character;</p> <p><b>B2.4.2 (5)</b> 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;</p>



<p><b>B4.4</b> Waitākere Ranges Heritage Area</p>	<p><b>B4.4.1 (1)</b> The natural and historic resources, including the significant environmental values and heritage features of the Waitākere Ranges, are protected, restored and enhanced for the benefit, use and enjoyment of the community.</p> <p><b>B4.4.1(3)</b> Development in settlements recognises and is sympathetic to the qualities, character and natural features of the Waitākere Ranges and the complex mixed landscapes of the foothills.</p> <p><b>B4.4.1(9)</b> The natural and historic resources of the Waitākere Ranges Regional Park are protected in perpetuity for their intrinsic worth and for the benefit, use, and enjoyment of the people and communities of Auckland and New Zealand.</p>	<p><b>B4.4.2(1)</b> Design and locate structures and impermeable surfaces and undertake activities in a way that does not impede or adversely affect the potential for the regeneration of native vegetation or reduce the extent and range of areas of native vegetation and linkages between them</p>
<p><b>D12</b> Waitākere Ranges Heritage overlay</p>	<p><b>D12.2 (1)</b> The heritage area and its features described in section 7 of the Waitākere Ranges Heritage Area Act 2008 are protected, restored and enhanced.</p> <p><b>(3)</b> The limited capacity of the heritage area to provide for growth is recognised.</p> <p><b>(4)</b> Subdivision in the heritage area is of an appropriate scale and intensity and complements the character and landscape of the heritage area.</p> <p><b>(5)</b> The quality and diversity of landscapes in the heritage area identified as having local, regional or national significance are maintained.</p> <p><b>(6)</b> Subdivision, use and development in the heritage area is subservient to the natural and rural landscape and character.</p>	<p><b>D12.3 (1)</b> Limit subdivision and development within the heritage area to protect its heritage features.</p> <p><b>(2)</b> Manage the scale, design, and location of subdivision so that it is consistent with section 8 of the Waitākere Ranges Heritage Area Act 2008.</p> <p><b>(3)</b> Protect the different natural landforms and landscape within the heritage area.</p> <p><b>(4)</b> Protect the distinctive natural and rural character of the heritage area.</p> <p><b>(5)</b> Protect the quietness and darkness of the Waitākere Ranges and the coastal part of the area.</p> <p><b>(9)</b> Manage built development so that it is integrated and is subservient to the natural and rural landscape and the heritage features of the area.</p> <p><b>(10)</b> Adopt a precautionary approach when assessing subdivision, use and development that could threaten serious or irreversible damage to a heritage</p>
<p><b>D12</b> Waitākere Ranges Heritage overlay</p>	<p><b>Waitākere Foothills</b></p> <p><b>D12.2(11)</b> The Waitākere Foothills provide a rural buffer between urban Auckland and the forested landscape of the</p>	<p><b>D12.3(11)</b> Maintain a clear contrast between the urban parts of the city and the Waitākere Ranges foothills through the design and location of subdivision, use and development which maintains and enhances rural character and amenity values.</p>

	Waitākere Ranges and the coasts	
<b>D12</b> Waitākere Ranges Heritage overlay	<p><b>Swanson South Foothills</b></p> <p><b>D12.2(14)</b> Swanson South's rural character, with low-density settlement and few urban-scale activities, is protected.</p> <p><b>D12.2 (15)</b> The ecological and landscape values of the area are protected from inappropriate subdivision and development.</p> <p><b>D12.2(16)</b> The effects of subdivision and associated development are managed to retain a buffer between the bush-clad and urban parts of the city.</p>	<p><b>D12.3 (16)</b> Provide for limited subdivision and development that: (a) protects and enhances streams, watercourses, and wetlands;</p> <p>(b) avoids where possible the need to clear native vegetation and restores areas of vegetation or re-vegetates areas of land along watercourses;</p> <p>(c) avoids, remedies or mitigates adverse effects on rural character and amenity values;</p> <p>(d) retains or links native vegetation and fauna habitat areas; and</p> <p>(e) avoids where possible development on natural landscape elements and heritage features.</p>
<b>D12</b> Waitākere Ranges Heritage overlay	<p><b>Titirangi – Laingholm (North, South and West)</b></p> <p><b>D12.2(19)</b> The unique settlement pattern and landscape qualities of the residential areas of Titirangi – Laingholm are maintained and enhanced.</p> <p><b>D12.2(20)</b> The forested character and natural qualities of the surrounding landscape which includes a low-density residential setting, prominent ridgelines, coastal areas and native vegetation and fauna habitats are maintained and enhanced</p>	<p><b>D12.3(17)</b> Provide for limited subdivision and development that:</p> <p>(a) avoids where practicable, or otherwise minimises the need for clearance of native vegetation and maintains the dominance of the natural environment;</p> <p>(b) includes planting of native vegetation to improve the natural environment;</p> <p>(c) protects native vegetation through legal protection mechanisms and fences....</p>
<b>E38.1</b> Subdivision – Urban	<p><b>E38.2 (1)</b> Land is subdivided to achieve the objectives of the residential zones, business zones, open space zones, special purpose zones, coastal zones, relevant overlays and Auckland-wide provisions</p> <p><b>(7)</b> Subdivision manages adverse effects on historic heritage or Maori cultural heritage.</p> <p><b>(8)</b> Subdivision maintains or enhances the natural features and landscapes that contribute to the character and amenity values of the areas.</p>	<p><b>E38.3 (1)</b> Provide for subdivision which supports the policies of the Plan for residential zones, business zones, open space zones, special purpose zones, coastal zones, relevant overlays and Auckland-wide provisions.</p> <p><b>(4)</b> Require subdivision to be designed to retain, protect or enhance scheduled features including those in the Historic Heritage Overlay and Sites and Places of Significance to Mana Whenua Overlay.</p>

<b>H1 – Residential</b> - Large Lot	<b>H1.2(1)</b> Development maintains and is in keeping with the area's spacious landscape character, landscape qualities and natural features  <b>(3)</b> Development is appropriate for the physical and environmental attributes of the site and any infrastructure constraints.	<b>H1.3 (1)</b> Require large minimum site sizes and limit the scale and intensity of development to ensure that:  <b>(b)</b> development will be in keeping with any landscape qualities or natural features; and  <b>(2)</b> Require development to be of a height and bulk and have sufficient setbacks and open space to maintain and be in keeping with the spacious landscape character of the area.
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D12 – Waitākere Ranges Heritage Area overlay is the predominant method of the qualifying matter. As stated earlier the objectives, policies and rules of this overlay apply to subdivision, use and development within the WRHA which prescribe additional subdivision standards when subdividing in the specified scheduled areas/sites. The WRHA is predominantly located within the rural area and Chapter E39 Subdivision – Rural specifically supports the subdivision objectives of this area. Chapter E38 Subdivision – Urban does not make specific reference to the overlay except to include it generally in objectives E38.2.(1), (7) and (8) above with reference to the objectives of the relevant overlays, managing effects on historic heritage or maintaining and enhancing natural features and landscapes.

As discussed above in the Issues section Council recommends the removal of the SH zone from the urban environment as the application of the required MDRS renders this zone ineffective in its former role as low density residential development. The absence of this low-density zone within the urban areas of the WRHA overlay removes the support given to the overlay particularly along the edges. Given the national and regional importance of the WRHA and its relationship with the adjoining area it is important that the edge of the heritage area is not compromised.

To this end the following section explores practicable options available to Council to maintain the level of protection required for these urban properties in light of the required intensification of MDRS/NPS-UD.

## Development of Options

As discussed in the overview report the 'default base' for consideration of options no longer includes a status quo of the Auckland Unitary Plan (Operative in Part) as the IPI is required to incorporate the mandatory requirements of the NPS-UD Policy 3 (updated May 2022) and the MDRS of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021. Therefore, against this base the following four options were considered for the qualifying matter:

1. **Option 1 - Adoption of the qualifying matter in full** – this option includes:
  - retaining the WRHA over properties within the RUB and all references to their specific Overlay Subdivision Schedules where these apply
  - inclusion of the riparian yard setback and the maximum impervious surface control of the current SH zone as mechanisms of the qualifying matter to be included in Councils bespoke response zones
  - retaining reference to these properties as noted in Schedule 16
  - acknowledging and specifically tagging supporting provisions for the overlay in Chapters E12 Land Disturbance – District, E15 Vegetation management and biodiversity, E38 Subdivision – Urban

[Some minor corrections are required to ensure sufficient reference to the existing urban properties in the various subdivision schedules and mapped areas of the WRHA overlay. These corrections are included as edits to the overlay]

2. **Option 2 - Removal of the qualifying matter** – this option seeks:
  - the removal of the WRHA overlay from the urban areas of the Auckland region
  - removal of all references to the urban properties included in Subdivision Scheduled Area Plans and the activity table of D12
  - removal of references to the urban properties from Schedule 16
  - amendment of the overlay to remove these properties from the map

[this would also involve a modification of the WRHA Act to correspond with the removal of the urban properties].

3. **Option 3 - Modify the MDRS/ NPSUD to accommodate the qualifying matter (qualifying matter to be retained)** - this option seeks to:
  - Retain the overlay as per Option 1
  - modify the MDRS to support the WRHA overlay by amending the activity table of the bespoke medium density zone to include development within the overlay as a DA
  - support this with specific bulk and location standards to limit impact on the overlay. Matters of discretion would include the area specific provisions of the scheduled subdivision areas of the overlay
4. **Option 4 - Strengthening the qualifying matter** – [Preferred option] this option includes:
  - retaining D12 (and including correction amendments noted in Option 1);
  - the adoption of H3A Residential – Low Density Residential zone (subject to specific standards as described in the Issues section of this report) to apply to all properties currently zoned for SH within the WRHA
  - the consequential inclusion of this zone into Chapter E38 Subdivision - Urban (including necessary objectives and policies) with specific reference to its application over the currently zoned SH properties within the WRHA overlay;

The preferred option (4) relies on the existing provisions of the overlay and the added specific provisions of H3A to reduce the impact of tension from the anticipated intensification at the edge of the heritage area.

As discussed above, NPS-UD Policy 3 (updated May 2022) only applies to 7-11 Christian Road as this is included within a walkable catchment area for the Swanson RTN station. Option 4 retains the Large Lot zone and the subdivision scheme for the property.

## **Consequences for development potential**

The area of the WRHA overlay within the RUB is not significant and the number of properties subject to this assessment is approximately 27. As shown on **Figure 6** above the majority of the area is zoned for Residential Large Lot which is not identified as a relevant residential zone and is therefore exempt from the anticipated intensification of MDRS/NPS-UD.

The exception to this is the property at 7-11 Christian Road (refer **Figure 4** above) which is zoned Residential Large Lot but is subject to NPS-UD Policy 3 (c) (updated May 2022) as it is included within the Swanson RTN walkable catchment. As discussed, the property is subject to Overlay Subdivision Plan 12 which provides for greater intensification than that enabled by

the LL zone of 4000m<sup>2</sup> for vacant proposed sites. Furthermore, a resource consent for 48 residential sites aligning with the provisions of Overlay Subdivision Plan 12 has recently been approved and a subdivision consent is pending. While this does fall short of the development potential enabled by Policy 3 it reflects a level of intensification that is supported given the location and heritage values over the site.

The remainder of the urban expanse of the overlay includes the following non-residential properties:

- Titirangi local centre – not considered for intensification as it does not meet the criteria for a walkable catchment so remains as is
- Open Space zoned properties (being assessed as a separate qualifying matter)
- Special Purpose – school zoned property at 5 Helios Ave.

As it is currently applied the WRHA overlay restricts development capacity through subdivision schedules that reflect the heritage values of the areas. Not all of these urban based properties are subject to a subdivision schedule and therefore default to the general provisions of Chapter E38 Subdivision – Urban.

They also consequentially have the current underlying low density residential zone of Residential - Single House which supports the overlay by restricting development to single dwellings (with the exception of a minor unit and a conversion of one unit into two) with a height limit of 8m.

The permitted development capacity anticipated by the MDRS (of three dwellings at 11m) for these few residential sites is constrained by the WRHA overlay. The sizes of the sites vary and the majority of them have been subdivided to their potential in accordance with the overlay, further limiting the anticipated intensification under MDRS. In addition as stated earlier the approach under Option 4 is to also apply H3A to these urban properties – which supports the overlay in signalling the limited development capacity of the properties.

Despite restricting development capacity the WRHA does contribute to the level of development in the locality by providing for development that both provides for the needs of the property owners and respects the nationally and regionally significant values of the area. By ensuring these values are protected then the area as a regional park is able to be enjoyed by the local communities and the rest of Auckland and the country. This translates to the health and well-being of the people now and into the future.

The overlay, as amended, will not contribute to the variety of housing types and sizes as these are instead enabling single dwellings per site with distance between buildings to avoid visual clutter/ dominance on the environment. Given the significance of the area this approach is considered appropriate.

## **Evaluation of options**

Options considered for an assessment of the Waitākere Ranges Heritage Area overlay have been referred to above. These are expanded on here.

Option 4 is considered the preferred option as it continues to give effect to S6(a) and (d) of the RMA, the objectives and policies of the Waitākere Ranges Heritage Area Act 2008, and to Chapter B4.4 of the AUP which seek to protect the heritage area which is of local, regional and national significance.

Option 4 recommends the retention and strengthening of the WRHA overlay which provides the holistic protection of the qualifying matter.

Qualifying matter	Status Quo – retain QM	Option 2 – remove QM	Option 3 – modify MDRS/ NPSUD Policy 3	Option 4 – strengthen QM
<b>Likely broader costs - social, economic, environmental, cultural costs</b>	<b>Moderate</b> economic costs from loss of development capacity as anticipated through MDRS.	<b>High</b> environment costs as edge is incrementally encroached and heritage area threatened. <b>High</b> cultural heritage costs through incremental loss of significant heritage feature	<b>Low</b> economic cost as small development potential of a few properties <b>Low</b> environmental and cultural costs as the integrity of the heritage area is kept intact	<b>Low</b> economic cost as small development potential of a few properties <b>Low</b> environmental and cultural costs as the integrity of the heritage area is kept intact
<b>Likely costs to housing supply / capacity</b>	<b>Low</b> cost to capacity as number of properties and dwellings is small.	<b>Low</b> cost to capacity as number of properties and dwellings is small	<b>Low</b> cost to capacity as number of properties and dwellings is small	<b>Low</b> cost to capacity as number of properties and dwellings is small
<b>Likely broader benefits - social, economic, environmental, cultural</b>	<b>High</b> environmental, cultural and social benefits as the QM maintained as nationally, regionally and locally significant heritage park for all. <b>Low</b> economic benefit as the low density zone enables development of these properties limited in footprint and bulk.	<b>Low</b> economic benefits given the small number of properties involved. <b>No</b> environmental or cultural benefits as the heritage feature will endure incremental challenge through increased intensification of the urban properties.	<b>Low</b> economic gain as the limitations imposed by the overlay and the activity status for development with limit number of dwellings. <b>High</b> social, cultural and environmental benefits as QM maintained	<b>High</b> environmental, cultural and social benefits as the QM maintained as nationally, regionally and locally significant heritage park for all. <b>Low</b> economic benefit as the low density zone enables development of these properties limited in footprint and bulk.

Section 32(2)(c) of the Act requires this evaluation to assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.

The WRHA is an overlay in the AUP which became operative in 2016. The information and extent of this overlay are considered certain and sufficient for their assessment as a qualifying matter under section 6(e) of the RMA.

## Overall conclusion

The Waitākere Ranges Heritage Area overlay is a matter of national importance under the RMA and gives effect to the Waitākere Ranges Heritage Area Act 2008. It is deemed a qualifying matter in accordance with s77I (a) and (d) of the RMA.

The recommendation is to retain the overlay and to strengthen it by applying the new Residential – Low Density Residential Zone (H3A) of the AUP to the properties currently zoned



Residential - Single House zone. H3A has been developed to specifically support the function of various overlays within the RUB. In addition, the property at 7-11 Christian Road will retain its zone of Residential - Large Lot despite its location within the Swanson RTN walkable catchment. This recommendation supports the function of the WRHA overlay in this location.

The MDRS will apply to the remaining three properties within the RUB, the subject of this analysis. These are currently zoned for Residential – Mixed Housing Suburban. Subdivision of these properties is subject to Discretionary Activity in accordance with the overlay.

This recommendation is not expected to have a significant impact on the application of the NPS-UD/MDRS due to the limited number of properties involved.

## Information Used

Information relied on for this report is detailed here:

Document	How it informed the development of the plan change
<b>Waitākere Ranges Heritage Area Act 2008</b>	D12 Overlay gives effect to the Act
<b>Auckland Unitary Plan (Operative in Part) 2016</b>	D12 – Waitākere Ranges Heritage Area Overlay; Schedule 16 (of same name); Chapter E38 Subdivision – urban; E15 Vegetation management and biodiversity; are relevant provisions of the qualifying matter
<b>AUP IHP Hearings evidence</b>	Provided background detail to the development of D12 and Schedule 16 in the AUP

## Consultation

Schedule 1 of the RMA sets out the relevant consultation requirements for PC78.

Mana whenua have been engaged at various stages in the preparation to provide feedback on the process and to the development of PC78.

Council provided an opportunity to the Auckland community to comment on its ‘preliminary response’ proposals during the period April 19 to May 9, 2022. The consultation documentation included Information Sheet #6: Qualifying matters (Part 1) which provided a definition of a qualifying matter and an explanation of their ability to constrain the anticipated intensification in relation to NPSUD and the RMA.

The government-specified qualifying matters and their corresponding list of AUP provisions were also provided as part of this consultation including the Waitākere Ranges Heritage Area under s77(a) and (d).

Throughout this process subject matter experts have also been consulted regarding the history of the heritage area and the development of the response to the anticipated intensification of the NPS-UD and MDRS.

## **Attachment 1 – Waitakere Ranges Heritage Area Act 2008**



## Waitakere Ranges Heritage Area Act 2008

Local Act      2008 No 1  
Date of assent      8 April 2008  
Commencement      see section 2

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#### Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

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#### Preamble

- (1) Whakarongo mai e nga iwi, ki ta te korero i mua. He ika tenei whenua. Ko te tangata nana i huti ko Maui. Kei konei tonu ahau, a mate noa:  
  
Listen all of the assembled tribes, to this the talk of olden times, this land is a fish. The person who fished it up was Maui. I will remain here on it, indeed until I die:  
  
(Waitakere Chief Te Waatarauhi speaking of his relationship to the area in his opening speech at the Kohimarama Conference in 1860):
- (2) The Waitakere Ranges and its foothills and coasts comprise an area of some 27 720 ha of public and private land located between metropolitan Auckland and the west coast of Waitakere City and Rodney District. The area is of local, regional, and national significance:
- (3) The area is outstanding in northern New Zealand for its terrestrial and aquatic ecosystems, which include large continuous areas of primary and regenerating lowland and coastal rainforest, wetland, and dune systems with intact ecological sequences. The area contains distinctive and outstanding flora, fauna, and landscapes:
- (4) The Waitakere Ranges (part of a remnant volcanic landform) are the western visual backdrop to metropolitan Auckland. Their forested hills and coastal vistas are essential to the identity of both Waitakere City and metropolitan Auckland. The foothills and coastal areas are a combination of rural, urban, and natural landscapes that create an important transition and buffer zone to the forested part of the Ranges:
- (5) The area has a long and rich human history. It is a distinctive cultural domain for Maori and lies within the rohe of both Te Kawerau A Maki and Ngati Whatua. European settlement began more than 160 years ago with one of the first attempts at organised colonial settlement of New Zealand made in the south of the area, at Cornwallis in 1841. A century of resource exploitation followed that has left its mark on the whole area:
- (6) The area includes the Waitakere Ranges Regional Park. The Park, protected at local, regional, and national levels, is an area of some 17 000 ha, established over a period of 110 years through gifts, grants, purchases, and vestings (including legislation promoted by Auckland City Council in 1941 to create the Auckland Centennial Memorial Park, commemorating the centenary of the Metropolitan District of Auckland):
- (7) The Waitakere Ranges also contribute to metropolitan Auckland's water supply. They are a water catchment and the location for a series of storage and

supply systems that have sustained, and continue to sustain, metropolitan Auckland since 1902:

- (8) In 2005, more than 21 000 people lived in the area (outside the Regional Park), mostly in forest-dominated urban, rural, or coastal communities:
- (9) The area is subject to development and urban intensification pressures. These pressures are compounded by the area's proximity to metropolitan Auckland, and threaten to undermine the unique natural, landscape, cultural, historic, and community features of the area, including its farming and rural character:
- (10) Local statutory guidance is considered desirable to better protect the Waitakere Ranges and their foothills and coasts, in particular in relation to—
  - (a) managing the cumulative and precedent effects of development on the landscape, the desired future character and amenity of the area, and the ecological and biological environment:
  - (b) maintaining a rural character for the communities in the foothills:
  - (c) maintaining low-density urban areas and coastal villages in which the built environment is subservient to the natural landscape:
  - (d) managing activities adjacent to the boundary between urban and rural areas (particularly in relation to the Metropolitan Urban Limit boundary):
  - (e) protecting heritage features:

## **1 Title**

This Act is the Waitakere Ranges Heritage Area Act 2008.

## **2 Commencement**

This Act comes into force on the day after the date on which it receives the Royal assent.

# **Part 1**

## **Preliminary provisions**

## **3 Purpose**

- (1) The purpose of this Act is to—
  - (a) recognise the national, regional, and local significance of the Waitakere Ranges heritage area; and
  - (b) promote the protection and enhancement of its heritage features for present and future generations.
- (2) To this end, the Act—
  - (a) establishes the Waitakere Ranges heritage area; and



- (b) states its national significance; and
- (c) defines its heritage features; and
- (d) specifies the objectives of establishing and maintaining the heritage area; and
- (e) provides additional matters for the Auckland Council and certain other persons to consider when making a decision, exercising a power, or carrying out a duty that relates to the heritage area.

Section 3(2)(e): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

#### 4 Interpretation

- (1) In this Act, unless the context otherwise requires,—

**Council** means the Auckland Council established by section 6(1) of the Local Government (Auckland Council) Act 2009

**deed of acknowledgement** means a deed of acknowledgement entered into under section 29

**heritage area** or **area** means the Waitakere Ranges heritage area established under section 5

**heritage features** means the heritage features described in section 7

**LAP** means a local area plan prepared and adopted under section 25

**objectives** means the objectives of establishing and maintaining the heritage area as specified in section 8

**Waitakere Ranges Regional Park** means the Waitakere Ranges Regional Park managed by the Council.

- (2) Unless the context otherwise requires, terms and expressions used and not defined in this Act, but defined in the Resource Management Act 1991, have the same meaning as in that Act.

Section 4(1) **ARC**: repealed, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 4(1) **Council**: inserted, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 4(1) **local authority**: repealed, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 4(1) **territorial authority**: repealed, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 4(1) **Waitakere Ranges Regional Park**: amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

## Part 2

### Heritage area, heritage features, planning requirements, etc

#### 5 Waitakere Ranges heritage area established

- (1) This section establishes the Waitakere Ranges heritage area.
- (2) The general location and boundaries of the area are shown on the indicative map in Schedule 1.
- (3) The legal description of the boundaries of the area is contained in Schedule 2.
- (4) If there is an inconsistency between the map in Schedule 1 and the legal description in Schedule 2, the legal description in Schedule 2 prevails.

#### 6 Boundary extension by Order in Council

- (1) Subsection (2) applies if—
  - (a) a person owns land that—
    - (i) is located in the district of a territorial authority; and
    - (ii) has a contiguous boundary with the heritage area; and
    - (iii) has features that are consistent with 1 or more of the heritage features; and
  - (b) the person makes a written request to the territorial authority concerned to include the land in the heritage area; and
  - (c) the Council is satisfied of the matters in paragraph (a).
- (2) The Governor-General may, by Order in Council made on the recommendation of the Minister of Local Government, alter or substitute Schedules 1 and 2 to extend the boundary of the heritage area to include any land to which subsection (1) applies.
- (3) The Minister must not make a recommendation under subsection (2) unless he or she has first received from the Council written notice of the matters in subsection (1).
- (4) An Order in Council made under this section may not be amended (except to correct an error) or revoked, and land included in the heritage area under this section cannot be excluded from it except by an Act of Parliament.
- (5) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

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#### Legislation Act 2019 requirements for secondary legislation made under this section

<b>Publication</b>	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*

Section 6(1)(c): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 6(3): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 6(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

## **7 National significance and heritage features of heritage area**

- (1) The heritage area is of national significance and the heritage features described in subsection (2), individually or collectively, contribute to its significance.
- (2) The heritage features of the heritage area are—
  - (a) its terrestrial and aquatic ecosystems of prominent indigenous character that—
    - (i) include large continuous areas of primary and regenerating low-land and coastal rainforest, wetland, and dune systems with intact ecological sequences:
    - (ii) have intrinsic value:
    - (iii) provide a diversity of habitats for indigenous flora and fauna:
    - (iv) collect, store, and produce high quality water:
    - (v) provide opportunities for ecological restoration:
    - (vi) are of cultural, scientific, or educational interest:
    - (vii) have landscape qualities of regional and national significance:
    - (viii) have natural scenic beauty:
  - (b) the different classes of natural landforms and landscapes within the area that contrast and connect with each other, and which collectively give the area its distinctive character:
  - (c) the coastal areas, which—
    - (i) have a natural and dynamic character; and
    - (ii) contribute to the area's vistas; and
    - (iii) differ significantly from each other:
  - (d) the naturally functioning streams that rise in the eastern foothills and contribute positively to downstream urban character, stormwater management, and flood protection:
  - (e) the quietness and darkness of the Waitakere Ranges and the coastal parts of the area:
  - (f) the dramatic landform of the Ranges and foothills, which is the visual backdrop to metropolitan Auckland, forming its western skyline:

- (g) the opportunities that the area provides for wilderness experiences, recreation, and relaxation in close proximity to metropolitan Auckland;
- (h) the eastern foothills, which—
  - (i) act as a buffer between metropolitan Auckland and the forested ranges and coasts; and
  - (ii) provide a transition from metropolitan Auckland to the forested ranges and coast;
- (i) the subservience of the built environment to the area's natural and rural landscape, which is reflected in—
  - (i) the individual identity and character of the coastal villages and their distinctive scale, containment, intensity, and amenity; and
  - (ii) the distinctive harmony, pleasantness, and coherence of the low-density residential and urban areas that are located in regenerating (and increasingly dominant) forest settings; and
  - (iii) the rural character of the foothills to the east and north and their intricate pattern of farmland, orchards, vineyards, uncultivated areas, indigenous vegetation, and dispersed low-density settlement with few urban-scale activities;
- (j) the historical, traditional, and cultural relationships of people, communities, and tangata whenua with the area and their exercise of kaitiakitanga and stewardship;
- (k) the evidence of past human activities in the area, including those in relation to timber extraction, gum-digging, flax milling, mineral extraction, quarrying, extensive farming, and water impoundment and supply;
- (l) its distinctive local communities;
- (m) the Waitakere Ranges Regional Park and its importance as an accessible public place with significant natural, historical, cultural, and recreational resources;
- (n) the public water catchment and supply system, the operation, maintenance, and development of which serves the people of Auckland.

## **8 Heritage area objectives**

The objectives of establishing and maintaining the heritage area are—

- (a) to protect, restore, and enhance the area and its heritage features;
- (b) to ensure that impacts on the area as a whole are considered when decisions are made affecting any part of it;
- (c) to adopt the following approach when considering decisions that threaten serious or irreversible damage to a heritage feature:
  - (i) carefully consider the risks and uncertainties associated with any particular course of action; and

- (ii) take into account the best information available; and
  - (iii) endeavour to protect the heritage feature:
- (d) to recognise and avoid adverse potential, or adverse cumulative, effects of activities on the area's environment (including its amenity) or its heritage features:
- (e) to recognise that, in protecting the heritage features, the area has little capacity to absorb further subdivision:
- (f) to ensure that any subdivision or development in the area, of itself or in respect of its cumulative effect,—
  - (i) is of an appropriate character, scale, and intensity; and
  - (ii) does not adversely affect the heritage features; and
  - (iii) does not contribute to urban sprawl:
- (g) to maintain the quality and diversity of landscapes in the area by—
  - (i) protecting landscapes of local, regional, or national significance; and
  - (ii) restoring and enhancing degraded landscapes; and
  - (iii) managing change within a landscape in an integrated way, including managing change in a rural landscape to retain a rural character:
- (h) to manage aquatic and terrestrial ecosystems in the area to protect and enhance indigenous habitat values, landscape values, and amenity values:
- (i) to recognise that people live and work in the area in distinct communities, and to enable those people to provide for their social, economic, environmental, and cultural well-being:
- (j) to provide for future uses of rural land in order to retain a rural character in the area:
- (k) to protect those features of the area that relate to its water catchment and supply functions:
- (l) to protect in perpetuity the natural and historic resources of the Waitakere Ranges Regional Park for their intrinsic worth and for the benefit, use, and enjoyment of the people and communities of the Auckland region and New Zealand.

*Matters relating to Resource Management Act 1991*

**9 Relationship between this Act and Resource Management Act 1991**

- (1) If a conflict arises between this Act and the Resource Management Act 1991, the Resource Management Act 1991 prevails.
- (2) Subsection (1) does not apply to section 13(1)(a)(ii) or 15(2)(b).

**10 Regional policy statements and regional plans**

- (1) When preparing or reviewing a regional policy statement or regional plan that affects the heritage area, the Council must give effect to the purpose of this Act and the objectives.
- (2) The requirements in subsection (1) are in addition to the requirements in sections 61, 66, and 79 of the Resource Management Act 1991.
- (3) When evaluating a proposed policy statement, or proposed plan, change, or variation that affects the heritage area, the Council must also examine whether the statement, plan, change, or variation is the most appropriate way to achieve the objectives (having regard to the purpose of this Act).
- (4) The requirements in subsection (3) are in addition to the requirements in section 32(3) of the Resource Management Act 1991.

Section 10(1): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 10(3): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

**11 District plans**

- (1) When preparing or reviewing a district plan that affects the heritage area, the Council must give effect to the purpose of this Act and the objectives.
- (2) The requirements in subsection (1) are in addition to the requirements in sections 74, 75, and 79 of the Resource Management Act 1991.
- (3) When evaluating a proposed district plan, change, or variation that affects the heritage area, the Council must examine whether the plan, change, or variation is the most appropriate way to achieve the objectives (having regard to the purpose of this Act).
- (4) The requirements in subsection (3) are in addition to the requirements in section 32(3) of the Resource Management Act 1991.

Section 11(1): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 11(3): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

**12 Requests for plan changes**

- (1) The Council may reject a request, in whole or in part, if the request is inconsistent with the purpose of this Act or the objectives.
- (2) To assist the Council in deciding whether to act under subsection (1), the person making the request must explain how it is consistent with the purpose of this Act and the objectives.
- (3) For the purposes of this section, an explanation under subsection (2) must be—
  - (a) treated as if it were information required under clause 22 of Schedule 1 of the Resource Management Act 1991; and



- (b) supplied to the Council in accordance with that clause.
- (4) In this section, **request** means a request under section 65(4) or 73(2) of the Resource Management Act 1991—
  - (a) to change a regional or district plan; and
  - (b) that relates to the heritage area or a part of it.

Section 12(1): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 12(2): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 12(3)(b): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

### 13 Resource consents

- (1) When considering an application for resource consent for a discretionary or non-complying activity in the heritage area, a consent authority—
  - (a) must have particular regard to—
    - (i) the purpose of this Act and the relevant objectives; and
    - (ii) the relevant provisions of any national policy statement or New Zealand coastal policy statement; and
  - (b) must consider the objectives having regard to any relevant policies in the regional and district plans.
- (2) The requirements in subsection (1)(a)(i) are in addition to the requirements in the Resource Management Act 1991.
- (3) When considering an application for resource consent for a controlled activity or a restricted discretionary activity in the heritage area, a consent authority must consider the purpose of this Act and the relevant objectives as if they were matters specified in the plan or proposed plan over which the Council has reserved its control or has restricted the exercise of its discretion.

Section 13(3): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

### 14 Conditions on resource consents

If a consent authority grants resource consent for an activity in the heritage area, it may impose conditions on the consent under section 108 of the Resource Management Act 1991 that relate to 1 or more of the heritage features or the objectives.

### 15 Designations and heritage orders

- (1) Subsection (2) applies to a person if the person is making a decision or recommendation that relates to the heritage area or a part of it for—
  - (a) a designation under section 168A, 171, 172, 174, 179, 181, or 182 of the Resource Management Act 1991; or

- (b) a heritage order under sections 189, 189A, 191, 192, 195, and 196 of the Resource Management Act 1991.
- (2) The person, when making the decision or recommendation, must have particular regard to—
  - (a) the purpose of this Act and the objectives; and
  - (b) the relevant provisions of any national policy statement or New Zealand coastal policy statement.
- (3) The requirements in subsection (2)(a) are in addition to the requirements in the Resource Management Act 1991.

## **16 Applications for declarations**

Sections 309 to 313 of the Resource Management Act 1991 apply as if the following matters were stated in section 310 of that Act as matters that a declaration may declare:

- (a) the application of section 9 of the Waitakere Ranges Heritage Area Act 2008; or
- (b) the existence or extent of any function, power, right, or duty under any of sections 10 to 15 of the Waitakere Ranges Heritage Area Act 2008; or
- (c) whether an act or omission, or a proposed act or omission, contravenes or is likely to contravene any of sections 10 to 15 of the Waitakere Ranges Heritage Area Act 2008; or
- (d) any other issue or matter relating to the interpretation, administration, or enforcement of any of sections 10 to 15 of the Waitakere Ranges Heritage Area Act 2008; or
- (e) the matters provided for in section 36 of the Waitakere Ranges Heritage Area Act 2008.

### *Matters relating to Local Government Acts 2002 and 1974*

## **17 Application of section 77 of Local Government Act 2002 to this Act**

If, in complying with section 76 of the Local Government Act 2002, the Council identifies an option under section 77 of that Act that involves a decision that relates to the heritage area, the Council must,—

- (a) in addition to doing the things required by section 77(1) of the Local Government Act 2002, have regard to the purpose of this Act and the objectives in the course of the decision-making process; but
- (b) paragraph (a) must be read subject to section 79 of the Local Government Act 2002.

Section 17: amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

## **18 Auckland spatial plan**

- (1) To the extent of any inconsistency, this Act prevails over the Auckland spatial plan prepared under section 79 of the Local Government (Auckland Council) Act 2009.
- (2) When adopting or amending the Auckland spatial plan, the Auckland Council must ensure that its provisions are not inconsistent with the purpose of this Act or the objectives.

Section 18: substituted, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

## **19 Management plan for Waitakere Ranges Regional Park**

- (1) The Council must prepare, adopt, and maintain a management plan for the integrated management of the Waitakere Ranges Regional Park.
- (2) In acting under subsection (1), the Council must give effect to the purpose of this Act and the objectives.
- (3) Before adopting or amending the management plan, the Council must use the special consultative procedure set out in section 83 of the Local Government Act 2002.
- (4) The management plan may form part of a comprehensive management plan for all regional park land managed by the Council.
- (5) The Regional Parks Management Plan 2003 must be treated as if it were the management plan prepared and adopted under subsection (1)—
  - (a) for the purposes of this section; and
  - (b) from the commencement of this Act.
- (6) For the avoidance of doubt, any part of the management plan that relates to a reserve (within the meaning of section 2(1) of the Reserves Act 1977) must satisfy the management plan requirements of section 41 of the Reserves Act 1977.

Section 19(1): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 19(2): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 19(3): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 19(4): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

## **20 Management plan must be reviewed every 10 years**

- (1) The Council must review the management plan prepared and adopted under section 19(1)—
  - (a) not later than 10 years after the date on which the plan was adopted; and
  - (b) after the first review, at intervals of not more than 10 years.
- (2) Subsection (1) does not limit or affect section 19(6).

Section 20(1): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

## **21 Watercare Services Limited**

*[Repealed]*

Section 21: repealed, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

### *Matters relating to other enactments*

## **22 Council must have particular regard to purpose and objectives of this Act when acting under Schedule 3 enactments**

The Council must have particular regard to the purpose of this Act and the objectives when exercising a power or carrying out a function—

- (a) under an enactment specified in Schedule 3; and
- (b) in relation to the heritage area.

Section 22 heading: amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 22: amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

## **23 Waitakere Ranges heritage area covenants**

- (1) If an owner of land in the heritage area agrees to manage all or a part of the land in a manner that contributes to achieving the purpose of this Act and the objectives, the Council may enter into a covenant with the owner (to be known as a Waitakere Ranges heritage area covenant)—
  - (a) to provide for the management of the land; and
  - (b) on the terms and conditions as they may agree.
- (2) The covenant may include conditions specifying contributions to be made by the local authority to assist with the management of the covenanted area.
- (3) A covenant that has been entered into under this section must be treated as if it were a covenant that had been entered into under section 77 of the Reserves Act 1977, and that Act applies accordingly, with any necessary modifications.

Section 23(1): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

## **24 Relationship between this Act and Foreshore and Seabed Act 2004**

This Act does not limit or affect the Foreshore and Seabed Act 2004.

### *Local area plans*

## **25 Local area plans**

- (1) The Council may prepare and adopt a local area plan for a local area that is within the heritage area.

- (2) The purpose of a LAP is to—
  - (a) promote the purpose of this Act and the objectives; and
  - (b) provide objectives (particularly long-term objectives) in relation to—
    - (i) the future amenity, character, and environment of the local area to which the LAP applies; and
    - (ii) the well-being of the local community within that area (including its economic and social wellbeing); and
  - (c) inform decision-making processes that relate to the heritage area.
- (3) A LAP must—
  - (a) define the local area to which the LAP applies; and
  - (b) identify the extent and nature of the heritage features existing in the local area; and
  - (c) state how it is intended that the objectives in section 8 will be promoted in relation to the local area; and
  - (d) identify the distinctive natural, cultural, or physical qualities or characteristics of the local area that contribute to the local area's long-term—
    - (i) pleasantness or aesthetic coherence; or
    - (ii) cultural or recreational attributes; and
  - (e) state policies and objectives in relation to the amenity, character, and environment of the local area.
- (4) A LAP may identify issues relating to the provision of future services in the local area to which the LAP applies.
- (5) The Council may amend, revoke, or replace a LAP.

Section 25(1): substituted, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 25(5): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

## **26 Preparation, amendment, revocation, and replacement of LAPs**

In preparing, amending, revoking, or replacing a LAP, the Council may decide for itself the process that it uses but, in doing so, it must—

- (a) ensure that the process encourages interested or affected persons to participate in and contribute to the LAP's preparation, amendment, revocation, or replacement; and
- (b) comply with the principles of consultation in section 82 of the Local Government Act 2002; and
- (c) if the LAP is for a local area that is adjacent to or includes a part of the Waitakere Ranges Regional Park, have regard to the current management plan for the Park prepared under section 19; and

- (d) consult with tangata whenua, namely Ngati Whatua and Te Kawerau A Maki.

Section 26: amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

## **27 Effect of LAP**

- (1) The adoption of a LAP by the Council does not constitute a decision by it to act on any specific matter included in the LAP.
- (2) However, if a decision of the Council is significantly inconsistent with, or is anticipated to have consequences that will be significantly inconsistent with, a LAP it has adopted, it must, when making the decision, clearly identify—
  - (a) the inconsistency; and
  - (b) the reasons for the inconsistency; and
  - (c) any intention it has to amend the LAP to accommodate the decision.
- (3) No person is entitled to require the Council or any other person to implement a LAP or any provision of it.

Section 27(1): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 27(2): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 27(3): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

## **28 Relationship between LAP and Resource Management Act 1991**

- (1) The Council may include in its district plan any part of a LAP that relates to managing the use, development, or protection of natural and physical resources.
- (2) For the purposes of subsection (1), the LAP or the parts of the LAP must be treated as a proposed plan change, and Part 1 of Schedule 1 of the Resource Management Act 1991 applies accordingly, with any necessary modification.
- (3) For the avoidance of doubt, a LAP or a provision of a LAP has no effect on any decision under the Resource Management Act 1991.
- (4) Subsection (3) is subject to subsections (1) and (2), and the Resource Management Act 1991.

Section 28(1): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

### *Deeds of acknowledgement*

## **29 Acknowledgement of tangata whenua relationship**

- (1) A deed of acknowledgement will acknowledge the particular historical, traditional, cultural, or spiritual relationship of tangata whenua of the heritage area,

namely Ngati Whatua and Te Kawerau A Maki, with any land in the heritage area.

- (2) Parties to a deed of acknowledgement will be the Crown or the Council and tangata whenua of the heritage area.
- (3) A deed of acknowledgement will be entered into after consultation with, and with the agreement of, the parties to that deed.
- (4) The deed of acknowledgement must not—
  - (a) relate to—
    - (i) any water; or
    - (ii) land that is held in fee simple by any person, other than the Crown or the Council; or
  - (b) be inconsistent with any registered interest in land to which it relates.
- (5) The deed of acknowledgement—
  - (a) records the Crown or relevant local authority's acknowledgement referred to in subsection (1); and
  - (b) must identify the land to which it relates; and
  - (c) may acknowledge, if appropriate, any statement of relationship by any others who claim tangata whenua status with the same land; and
  - (d) without limiting section 30, must identify any specific opportunities for contribution by the tangata whenua to whom the deed relates to the management of the land by the Crown or the Council.
- (6) The deed of acknowledgement may be amended or revoked by agreement between the parties.

Section 29(2): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 29(4)(a)(ii): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 29(5)(d): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

### **30 Purpose and effect of deed of acknowledgement**

- (1) The only purpose of a deed of acknowledgement is to identify opportunities for contribution by tangata whenua to the management of the land concerned by the Crown or the Council.
- (2) A deed of acknowledgement—
  - (a) does not affect the exercise of any power or the carrying out of any function or duty by any person under any enactment:
  - (b) must not be taken into account by any person in the exercise of any power or the carrying out of any function or duty under any enactment by the person:

- (c) does not permit any person, when considering any matter or making any decision or recommendation under any enactment, to give any greater or lesser weight to the statement of relationship concerned than the person would give under the enactment if the deed did not exist:
- (d) does not affect the lawful rights or interests of any person:
- (e) does not have the effect of granting, creating, or providing evidence of any estate or interest in, or any rights of any kind in relation to, any land referred to in the deed.

Section 30(1): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

### **31 May be more than one deed of acknowledgement for same land**

A deed of acknowledgement entered into by the Crown or a local authority with tangata whenua does not prevent the Crown or the local authority from entering into further deeds of acknowledgement for the same land with other tangata whenua who have a historical, traditional, cultural, or spiritual relationship with the land.

### **32 Notice of deed of acknowledgement**

- (1) The Crown or a local authority must give notice of the following things:
  - (a) the entering into of a deed of acknowledgement:
  - (b) the amendment of a deed of acknowledgement to which it is a party:
  - (c) the revocation of a deed of acknowledgement to which it is a party.
- (2) The notice must be published—
  - (a) in the *Gazette*; and
  - (b) as soon as possible after the thing to which it relates.

#### *Consultation processes with tangata whenua*

### **33 Consultation processes with tangata whenua**

- (1) In addition to any specific opportunities for contribution identified in a deed of acknowledgement under section 29(5)(d), the Council must establish and maintain processes to provide opportunities for Ngati Whatua and Te Kawerau A Maki to contribute to the decision-making processes of the Council in its implementation of this Act.
- (2) For the avoidance of doubt, subsection (1) does not apply to a decision of the Council in relation to land that is held in fee simple by any person other than the Crown or the Council (for example, a decision in relation to a consent, permit, or authorisation).



Section 33(1): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 33(2): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

### **Part 3**

#### **Miscellaneous provisions**

#### **34 Council must monitor and report on certain matters relating to heritage area**

- (1) The local Council must monitor—
  - (a) the state of the environment in the heritage area; and
  - (b) the progress made towards achieving the objectives; and
  - (c) the funding impact arising from activities to be undertaken specifically to give effect to this Act.
- (2) The local Council must produce, and adopt, a report on the monitoring undertaken under subsection (1)—
  - (a) not later than 5 years after the commencement of this Act; and
  - (b) after the first report, at intervals of not more than 5 years.
- (3) The Council must give public notice of having adopted a report by publishing a notice in 1 or more daily newspapers circulating in the heritage area.

Section 34 heading: amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 34(1): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 34(2): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 34(3): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

#### **35 Preservation of existing rights**

This Act does not limit or affect—

- (a) any title or right to ownership of any land or natural resources within the heritage area, whether the title or right is conferred by enactment, at common law, or in any other manner;
- (b) any statutory acknowledgement included in any enactment and listed in Schedule 11 of the Resource Management Act 1991;
- (c) the ability of any person to bring a claim (or continue to bring a claim) or seek a remedy in any court or tribunal—
  - (i) arising from the Treaty of Waitangi, an Act, the common law, or in any other manner; and
  - (ii) relating to heritage area land or its natural resources.

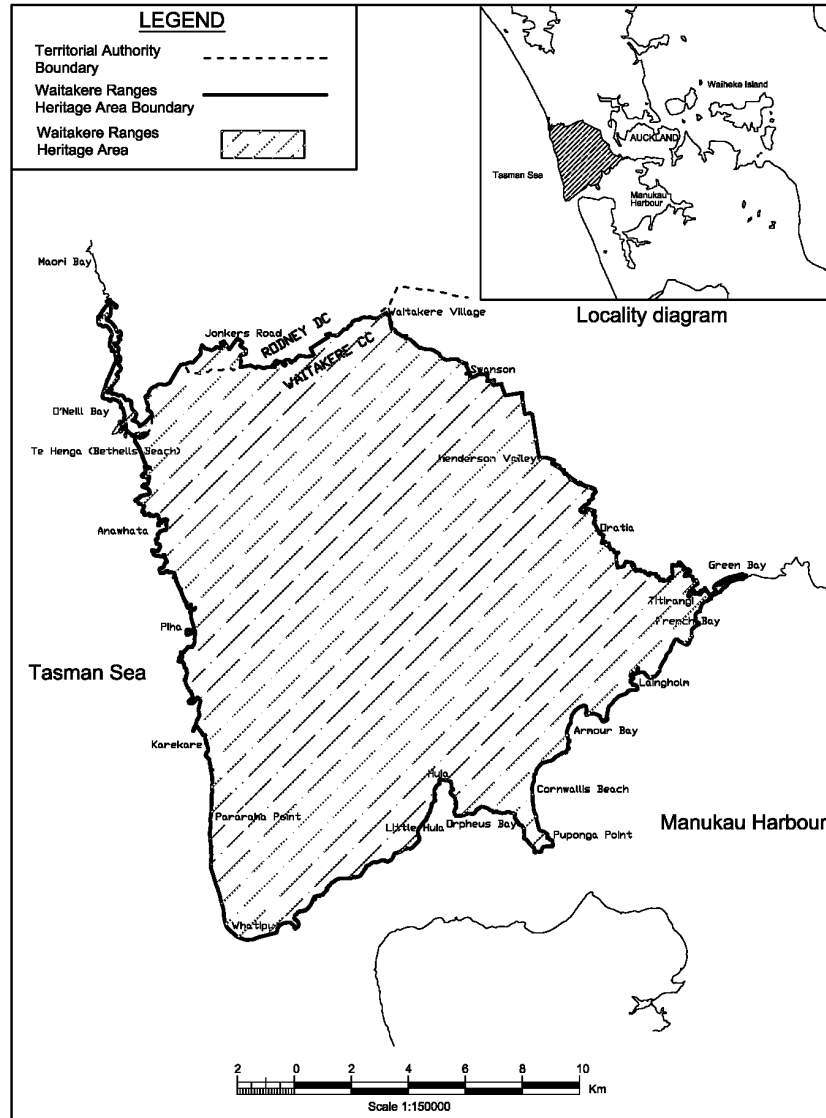
**36 Transitional provisions**

- (1) An application for resource consent for an activity in the heritage area that has been lodged but not finally determined before the commencement of this Act must be completed (including any rights of appeal under the Resource Management Act 1991) as if this Act had not been enacted.
- (2) A plan change or variation, proposed policy statement, heritage order, or notice of requirement for a designation that has been notified but not finally determined before the commencement of this Act must be completed (including any rights of appeal under the Resource Management Act 1991) as if this Act had not been enacted.

## Schedule 1

### Indicative map of Waitakere Ranges heritage area

s 5



## Schedule 2

### Description of Waitakere Ranges heritage area

s 5

The Waitakere Ranges heritage area is all those areas identified as:

<b>North Shore Land District</b>	
<b>Area</b>	<b>Description</b>
25 710 hectares	Area A shown on SO Plan 361780
530 hectares	Area B shown on SO Plan 361452
660 hectares	Area C shown on SO Plan 361452
820 hectares	Area A shown on SO Plan 64997

**Schedule 3**  
**Enactments to which section 21 applies**

s 22

Biosecurity Act 1993 (Part 5)  
Hauraki Gulf Marine Park Act 2000  
Heritage New Zealand Pouhere Taonga Act 2014  
Reserves Act 1977  
Soil Conservation and Rivers Control Act 1941

Schedule 3: amended, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

## Notes

### **1     *General***

This is a consolidation of the Waitakere Ranges Heritage Area Act 2008 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

### **2     *Legal status***

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

### **3     *Editorial and format changes***

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

### **4     *Amendments incorporated in this consolidation***

Secondary Legislation Act 2021 (2021 No 7): section 3

Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26): section 107

Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37): section 113(1)