

# 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  
NOTABLE TREES OVERLAY**

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## Executive Summary

The Auckland Unitary Plan (Operative in Part)(‘AUP) Tree Schedules (Schedule 10) and the Auckland District Plan (Hauraki Gulf Islands (HGI) Section)(Appendix 1G) provide protection for Auckland’s notable trees.

The Notable Tree Overlay applies to scheduled trees and groups of trees that are identified in Schedule 10 and Appendix 1G and shown on the planning maps. Each scheduled tree or group of trees had been evaluated under the relevant legacy plans and met the notable tree criteria at the time they were scheduled.

In the Notable Trees Overlay of the Auckland Unitary Plan, the verified location of individual scheduled trees are shown by a single green triangle. The Notable groups of Trees Overlay identifies the extent of scheduled groups of trees using green polygons. Where the location of the tree/s has not been ground-truthed their presence on a site is indicated by a single green triangle with a red dot in the centre of the parcel.

The Notable Trees Overlay is a qualifying matter under the NPS-UD as it protects and manages those trees which have identified significant values. Notable trees are afforded legal protection to ensure their significant heritage, scientific, or intrinsic values are protected and retained. They also make important contributions to a wide array of additional values, including amenity, ecological, environmental, biodiversity and more broadly, what are referred to as ecosystem services including factors such as land stability, improving air quality, removing particulate pollution intercepting rainfall to reduce peak flow of stormwater, and so forth. Identifying and protecting notable trees contributes to Auckland’s quality and character.

Trees have multiple values, including cultural heritage, intrinsic and scientific values. They also make an important contribution to amenity values. For notable trees the identified values are a mix of sections 77I and 77O qualifying matters – i.e. New Zealand Coastal Policy Statement coastal environmental contributions, section 6 significant indigenous vegetation and significant habitats of indigenous fauna<sup>1</sup>, historic heritage<sup>2</sup>, cultural heritage<sup>3</sup> as well as section 7 amenity<sup>4</sup>. The proportional mix varies tree by tree but as a whole there are sections 77I and 77O matters intertwined for most trees.

The section 6 values identified above are matters of national importance and Council is required to recognise and provide for the protection of these values from inappropriate subdivision, use and development. As far as section 7 ‘other’ qualifying matter aspect is concerned, council has relied on the work undertaken for Plan Change 29 and this is discussed in section 2.2 of this report.

The AUP contains objectives and policies at both regional and district levels that seek to protect notable trees from inappropriate subdivision, use and development and allow for the appropriate use of sites. Rules in the overlay manage development activities according to

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<sup>1</sup> RMA s6(c)

<sup>2</sup> RMA s6(f)

<sup>3</sup> RMA s6(e)

<sup>4</sup> RMA s7(c)

the expected impact of development on any notable trees or groups of trees on site. Activities like trimming, alteration, dead wood removal are permitted<sup>5</sup> (subject to standards). Activities including new buildings, development and subdivision, which may have an impact on the values of a notable tree or group of trees (or require their alteration/removal), are managed via resource consent.

The Notable Trees Overlay as a qualifying matter requires the modification of Policy 3 and the Medium Density Residential Standards (MDRS) in part. The aspects that require modification relate to density, as subdivision and new buildings and structures which may require the removal, works within the dripline, and or significant alteration of notable trees require resource consent as discretionary or restricted discretionary activities within the overlay. While it may be appropriate, in terms of its values, to subdivide land where notable trees are present and/or develop the site by adding new buildings or structures, these development activities may also have an impact on the values of the notable tree or groups of trees.

The Notable Tree Overlay applies to all Policy 3 zones and all relevant residential zones in the urban environment. Each site with notable tree/s is different, and each tree has its own set of values, in order to describe the level of development forgone by applying Policy 3 and the MDRS in full the site-by-site analysis undertaken as part of Plan Change 29 has been relied upon to assist in describing a typical site. However, it is known that the level of development forgone by not applying Policy 3 and the MDRS in full is minimal, as the Notable Tree Overlay applies to less than one per cent of land parcels in Auckland's urban environment.

Policy 3 and the MDRS need to be modified for the Notable Trees Overlay as a qualifying matter to ensure that the values identified by the overlay are protected from inappropriate subdivision, use and development.

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<sup>5</sup> AUP D13.4.1

## **Note:**

This draft report will form part of a larger sec 32 report for the IPI plan change.

The overall sec 32 report will set out the background to the IPI, the statutory requirements and discuss key terms like qualifying matters, walkable catchments and urban environments.

This draft report does not need to explain this background.

## **1. Introduction**

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

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

This report discusses the implications of applying the Notable Trees 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

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

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

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

### **1.1 Integrated evaluation for existing qualifying matters**

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

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

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

**Table 1 Integrated approach**

Standard section 32 steps	Plus, section 77K / 77Q steps for existing qualifying matter
<p>Issue</p> <p>Define the problem- provide overview/summary providing an analysis of the qualifying matter</p>	<p>Sec 77K or 77Q (1) (a)</p> <p>The qualifying matter is the Notable Trees Overlay. The Notable Trees Overlay applies to sites that are identified in Schedule 10 and Appendix 1G and shown on the AUP and HGI maps. Scheduled trees have been evaluated and meet the notable tree criteria and thresholds set out in the Regional Policy Statement (Policy B4.5.2(1)) (and the legacy plan equivalents).</p> <p>The location of notable trees and groups of trees identified in the Notable Trees Overlay are mapped in the Unitary Plan maps by:</p> <ul style="list-style-type: none"> <li>• Individual trees (green triangle);</li> <li>• Group of trees (green polygon) or</li> <li>• Unverified location (green triangle with a red dot)</li> </ul>
<p>Identify and discuss objectives / outcomes</p>	<p>Sec 77K or 77Q(1) ( c )</p> <p>The relevant RPS objective is B4.5.1(1) and relevant RPS policies are B4.5.2(1) to (4).</p> <p>The Notable Tree Overlay is a qualifying matter as it manages the significant values of notable trees that are identified in the AUP Schedule 10 Notable Trees Schedule and the HGI District Plan, Appendix 1G. Trees have multiple values, including cultural heritage, intrinsic and scientific values. They also make an important contribution to amenity values. The identified values of notable trees are a mix of sections 77I and 77O qualifying matters – i.e. New Zealand Coastal Policy Statement coastal environmental contributions, section 6 significant indigenous vegetation and significant habitats of indigenous fauna<sup>6</sup>, historic heritage<sup>7</sup>, cultural heritage<sup>8</sup> as well as section 7 amenity<sup>9</sup>. The proportional mix varies tree by tree but as a whole there are section 77I and 77O matters intertwined for most trees.</p>
<p>Identify and screen response options</p>	<p>Sec 77k or 77Q (1) (b)</p> <p>The three options that have been identified and evaluated for the Notable Trees Overlay as a qualifying matter are:</p> <ul style="list-style-type: none"> <li>• Apply Policy 3 and MDRS / do not apply Notable Trees Overlay as a qualifying matter</li> </ul>

<sup>6</sup> RMA s6(c)

<sup>7</sup> RMA s6(f)

<sup>8</sup> RMA s6(e)

<sup>9</sup> RMA s7(c)

	<ul style="list-style-type: none"> <li>• Apply Policy 3 and MDRS in a modified form by identifying alternative density standards</li> <li>• Apply Notable Trees Overlay as a qualifying matter in full (preferred option).</li> </ul>
Collect information on the selected option(s)	<p>Sec 77K or Q (1) (d)</p> <p>For the Notable Trees Overlay, it is not possible to describe in general terms for a typical site the level of development that would be prevented by accommodating the qualifying matter, in comparison with the level of development that would have been permitted by the MDRS and policy 3. While sites may be typical in terms of their underlying zoning, notable trees can range in size, individual trees to large groups of trees. The impacts on any given site could be different depending on the nature of the development proposed. Plan Change 29 involved a line by line analysis of Schedule 10 in its entirety and this has assisted in describing typical patterns (discussed in further detail in section 2.2 of this report). The Notable Tree Overlay, where the provisions of the overlay apply, may be located across the entirety of a site or only to a portion. The overlay also may be located over more than one site (for example, boundary trees, large groups of trees) and be subject to different underlying zones, include the road, or the coastal marine area.</p>
Evaluate option(s) - environmental, social, economic, cultural benefits and costs	<p>Sec 77K or Q (1) (b)</p> <p>Identifying the Notable Trees Overlay as a qualifying matter provides high benefits as notable trees contribute to a well-functioning urban environment.</p> <p>Identifying the Notable Trees Overlay as a qualifying matter has a low cost in terms of the provision of a variety of housing types and sizes. This is because the overlay applies to a very small percentage of land within Auckland’s urban environment and notable trees are scattered throughout the relevant residential zones and non-residential zones so will not impact on the ability of said zones to provide for a variety of housing types (including three-storey buildings) and sizes. In some cases, notable trees may not have any impact on development capacity.</p>
Overall judgement as to the better option (taking into account risks of acting or not acting)	<p>The impact of the qualifying matter on the level of development enabled by Policy 3 and the MDRS is low as it contributes to a well-functioning urban environment and has a limited impact on the intensification sought by Policy 3 and the need to provide a variety of housing types and sizes because it applies to 3147 scattered sites which cover 0.6% percent of Auckland’s land parcels.</p>

## 2. Issue

### 2.1 Notable Trees Overlay

The qualifying matter being evaluated is the Notable Trees Overlay, which identified trees and groups of trees of value within Tāmaki Makaurau Auckland.

The management of notable trees in Auckland is not new; many notable trees and groups of trees were evaluated and met the criteria and thresholds set out in the legacy plans at the time they were scheduled. Those notable trees which have been (or are proposed to be) added to the AUP since it became operative have been assessed as meeting the current operative criteria.

The location and extent of individual trees and groups of trees in the Notable Trees Overlay are mapped in the AUP maps by:

- Individual trees (green triangle);
- Group of trees (green polygon) or
- Unverified location (green triangle with a red dot)

Tamaki Makaurau's notable trees that are identified in the Notable Trees Overlay are located in nearly all zones within Auckland's urban environment, including all relevant residential zones (MDRS) and in urban non-residential zones, including the City Centre and other business zones, open space zones and special purpose zones.

This qualifying matter seeks to protect notable trees from inappropriate subdivision, use and development. The values of scheduled notable trees come in a wide variety of forms and may be affected by intensification in varying degrees or may not be affected at all. The Notable Trees Overlay is compatible with Policy 3 and the MDRS except in relation to development relating to new buildings and structures and subdivision where they may require the removal of, works within the dripline of and or the alteration of notable trees.

Subdivision, use and development activities may occur within the Notable Trees Overlay in an appropriate way that ensure the values of a tree or group of trees are protected, for example by inclusion within gardens and green spaces within developments. However, some development activities are more likely to be incompatible the policy intent for notable trees including the construction of new buildings and subdivision (where they require the removal/alteration of notable trees or groups of trees), and the creation of impermeable surfaces over root zones. Protection of notable trees may arguably be incompatible with the NPSUD as they may restrict density, including density of urban form in the City Centre zone and metropolitan centre zones and may restrict the MDRS standard that enables three residential units per site.

The Notable Trees as a qualifying matter applies to relevant residential and urban non-residential zones under the following sections of the RMA:

*Residential zones:*



- 77I – Schedule 10 and Appendix 1G recognise and protect the section 6 and 7 values of notable trees.
- 77K – notable trees is an existing qualifying matter in the district plan section of the AUP and the alternative process for existing qualifying matters is appropriate.

*Non-residential zones:*

- 77O(a) – Schedule 10 and Appendix 1G recognise and protect the section 6 and 7 values of notable trees.
- 77Q – notable trees is an existing qualifying matter in the district plan section of the AUP and the alternative process for existing qualifying matters is appropriate.

## **2.2 Notable trees, Plan Change 29 and site-specific analysis**

Section 77L of the Act (relates to residential zones) states that a matter is not a qualifying matter under 77I(j) in relation to an area unless the evaluation report referred to in section 32 also:

- (a) identifies the specific characteristic that makes the level of development provided for by the MDRS (as specified in Schedule 3A or as provided for by Policy 3) inappropriate in the area; and*
- (b) justifies why that characteristic makes that level of development inappropriate in light of the national significance of urban development and the objectives of the NPS UD; and*
- (c) includes a site-specific analysis that:*
  - (i) identifies the site to which the matter relates; and*
  - (ii) evaluates the specific characteristics on a site-specific basis to determine the geographic area where intensification needs to be compatible with the specific matter; and*
  - (iii) evaluates an appropriate range of options to achieve the greatest heights and densities permitted by the MDRS (as specified in Schedule 3A of the Act) or as provided for by Policy 3 while managing the specific characteristics.*

Section 77L(c) and 77R(c) of the Act, Council has undertaken a site-specific analysis of the Notable Trees Overlay to:

- identify the sites to which the qualifying matter relates, and
- evaluate the specific characteristics on a site-specific basis to determine the geographic area where intensification needs to be compatible with the specific matter.

Plan Change 29 (PC29) to the AUP was a council-initiated plan change to amend errors and inconsistencies in the Schedule text and maps. The intention of PC29 is to provide clarity for property owners about the location, number and species of scheduled tree(s) on the property. PC29 did not add or re-evaluate existing trees on the schedule, the aim was only to ensure the current Schedule was correct and up to date and improve the overall usability of the document.

To achieve the objective of PC29 of identifying and addressing all inaccuracies and inconsistencies in Schedule 10 a line-by-line analysis of the each listing in the Schedule was undertaken. A system was set up by staff to go through each line item. This process checked for:

- text errors, simply typographical errors in the schedule (such as incorrect species names, missing botanical names etc)
- accuracy of lot and deposited plan descriptions (changes due to subdivision, for example)
- incorrectly described location of trees
- numbers of trees inaccurately described in the schedule – for example, the number of trees listed not matching the numerical column
- accuracy of location of trees/groups of trees using a variety of desktop tools (most recent aerial photos, Google street view, historic 'site packs,' property files and some site visits
- identification of properties remaining affected by the overlay when the tree/trees had been removed as a result of resource consent or emergency work
- duplicate or multiple entries

The overall objective was to ensure that the text and maps for notable trees align, and that the information was correct and up-to-date. The specific characteristics of each notable tree listing were analysed and where possible the geographic area the overlay applied to was accurately identified.

### **2.3 Notable tree values and Section 7 Other matters**

The AUP protects and retains almost 6-7000 notable trees or notable groups of trees regionally with significant historical, botanical or amenity values. Notable trees are afforded legal protection to ensure their significant heritage, scientific, or intrinsic values are protected and retained. They also make important contributions to a wide array of additional values, including amenity, ecological, environmental, biodiversity and more broadly, what are referred to as ecosystem services including factors such as land stability, improving air quality, removing particulate pollution intercepting rainfall to reduce peak flow or stormwater, and so forth. Identifying and protecting notable trees contributes to Auckland's quality and character.

#### Section 7 Other matters

*In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources shall have particular regard to –*

*(a) kaitiakitanga:*

*(aa) the ethic of stewardship:*

*(b) the efficient use and development of natural and physical resources:*

- (ba) the efficiency of the end use of energy:*
- (c) the maintenance and enhancement of amenity values:*
- (d) intrinsic values of ecosystems:*
- (e) [Repealed]*
- (f) maintenance and enhancement of the quality of the environment:*
- (g) any finite characteristics of natural and physical resources:*
- (h) the protection of the habitat of trout and salmon:*
- (i) the effects of climate change:*
- (j) the benefits to be derived from the use and development of renewable energy.*

Because the values associated with scheduled trees are wide-ranging, the retention of the current schedule will assist in achieving many of the other matters outlined in Section 7 above.

The analysis undertaken as part of PC29 identified that many notable trees and notable groups of trees have been scheduled because they contribute to the maintenance and enhancement of amenity values and make a significant contribution to local amenity. The current overlay covers many types of zones (majority are residential zones with the largest proportion concentrated in the Isthmus district) and the overlay operates effectively not by amending underlying zoning standards, but rather triggers consent for removal of specifically identified trees.

### **3. Objectives and Policies (existing)**

The AUP identifies objectives and policies that support the Notable Trees Overlay as a qualifying matter.

#### **3.1 B4 Te tiaki taonga tuku iho – Natural heritage**

Chapter B4.5 Notable Trees contains one objective:

*(1) Notable trees and groups of trees with significant historical, botanical or amenity values are protected and retained*

This objective is supported by policies B4.5.1(1) to (4):

- Policies 1 to 3 relate to the identification and evaluation of notable trees.
- Policies 4 seeks to protect notable trees, including by avoiding development that would destroy or significantly adversely affect the identified values of a notable tree or group of trees. Or where significant adverse effects cannot be avoided, seeking that they be remedied or mitigated so they no longer constitute a significant adverse effect.

### **3.2 Chapter D13 Notable Trees Overlay**

Chapter D13 of the AUP contains the district-level objectives and policies that support notable trees as a qualifying matter. There is one objective:

- (1) *Notable trees and notable groups of trees are retained and protected from inappropriate subdivision, use and development.*

Two policies support this objective. The policies relate to a range of activities, including trimming, alteration, removal, subdivision, use and development, consideration of the tree/s values, alternative methods to retain the tree/s.

The management approach for notable trees set out in the AUP has two key components relevant to their role as a qualifying matter. Firstly, notable trees are identified and evaluated for their significance, which may include multiple values, and are recognised in the AUP and HGI notable tree schedules. Secondly, notable trees included in these schedules are subject to the provisions of the Notable Trees Overlay. These provisions manage the protection of scheduled notable trees.

Rules in the Notable Trees Overlay relate to the following key development activities:

- Works within the protected root zone
- Tree removal

The Notable Trees Overlay is based on a management approach where activities anticipated to have a greater effect on the values of a notable tree/s in Schedule 10 are subject to more rigorous management. The identification of notable tree/s locations on site through the mapping and the accurate description in the text is the basis of this management approach, ensuring the management of a notable tree is specific to its features, and therefore to the values and significance of that particular tree/s.

The overlay rules are designed to avoid unnecessary consent activity, while protecting notable trees from inappropriate subdivision, use and development. Activities such as biosecurity tree works, emergency works, trimming or alteration are permitted, subject to standards, while activities likely to have a greater impact on the values of the notable tree/s, such as works within the protected root zone not otherwise provided for, require resource consent. The requirement for consent ensures that the notable tree values and significance of a place will be taken into account by both landowners and decision makers.

There are no amendments proposed to the objectives and policies of D13 in response to either Policy 3 or MDRS.

## **4. Development of options**

There are almost 3000 individual line items representing 6-7000 trees or groups of trees across Auckland.

In Auckland's urban environment there is no typical site in relation to notable trees, given both the range of zones where this qualifying matter occurs and the variability of notable trees or groups of trees.

The land that is subject to the Notable Trees Overlay represents an extremely small proportion of Auckland’s total land area, as the following statistics illustrate (and note that the overlay does not always apply to the entire parcel):

- Auckland region – 0.6% per cent of property parcels contain a notable tree
- urban environment – 0.7% per cent
- residential zones – 0.6% percent

For the Notable Tree Overlay as a qualifying matter, many elements of Policy 3 and most of MDRS can be applied in full, as set out below.

In terms of the MDRS, the provisions of the Notable Tree Overlay do not directly manage building height, height in relation to boundary (HIRB), setbacks, building coverage, outdoor living space, outlook space, windows to street or landscaped area. However, because the removal of notable trees requires a resource consent under the overlay rules, then by default the ability to apply other MDRS as a permitted activity may also be constrained.

For Policy 3, the overlay does not control the height of buildings. However, subdivision is managed within the overlay and consent is required for the removal and/or alteration of notable trees, which affects the enablement of building height (for example within walkable catchments enablement of at least six storeys is required) within Policy 3 areas and the ability to implement the MDRS standard for up to three residential units per site in relevant residential zones for a small number of sites. The rules for subdivision, notable tree removals, works within the dripline and alteration apply everywhere the overlay is located, in both residential and non-residential zones, so these rules also impact on the application of Policy 3. These development activities are assessed against the values of each individual notable tree through application processes.

The values of scheduled notable trees subject to the Notable Trees Overlay are significant and Council is required to recognise and provide for the protection of these trees or groups of trees from inappropriate subdivision, use and development. It is therefore necessary to consider whether the MDRS and Policy should be applied in part or not at all in response to this qualifying matter. There are several options, which are summarised in the table below.

**Table 2 – Options**

Option	Detail of option
1. Apply Policy 3 & MDRS / do not apply Notable Trees Overlay as a qualifying matter (Status quo)	Remove provisions in D13 that manage subdivision, removals, alteration and work within the dripline as they apply to relevant zones.
2. Apply Policy 3 & MDRS in a modified form by identifying alternative density standards	Specify alternative density of one dwelling per site for relevant residential zones (see below)
3. Apply Notable Trees Overlay as a qualifying matter in full	Notable Tree Overlay provisions would continue to apply as operative.

The three options in Table 2 are evaluated in section 6 below.

## 4.1 Alternative density

When setting out the alternative process for existing qualifying matters, section 77K(1)(b) of the RMA requires the alternative density standards proposed for a qualifying matter to be specified. For the Notable Trees Overlay as a qualifying matter, the densities need to be specified for all of the overlay, which applies to the relevant residential and non-residential zones shown in Table 3.

**Table 3 – Zones and densities**

<b>Zone</b>	<b>Density (as a permitted activity)</b>
<i>Relevant residential zones</i>	
Single House	One dwelling per site except for minor dwellings and the conversion of a principal dwelling into a maximum of two dwellings
Mixed Housing Suburban	Up to three dwellings per site
Mixed Housing Urban	Up to three dwellings per site
Townhouse and Apartment Buildings	n/a Dwellings are a restricted discretionary activity ( <b>RDA</b> ) New buildings that comply with height in relation to boundary standards are an RDA
<i>Non-residential zones</i>	
Business - City Centre, Metropolitan Centre, Town, Local & Neighbourhood Centre zones	n/a New buildings are an RDA

Due to the variability of notable trees and groups of trees, including their individual values and their location within the site, it is very difficult to specify alternative densities for the overlay where it could be certain that the density specified would not allow development that adversely affected the values of a notable tree or group of trees, or inappropriate precluded development that would not adversely affect the notable tree overlay. Therefore, as a precaution, the alternative density that can be specified for relevant residential zones is one dwelling per site.

## 4.2 Consequences for development potential

The Notable Trees Overlay is present across all residential zones in Auckland's urban environment and is also located in many non-residential zones, including the Business - City Centre, and the Business - Metropolitan, Town, Local and Neighbourhood Centre zones.

The Notable Trees Overlay as a qualifying matter may affect the level of development enabled by Policy 3 and MDRS in relation to subdivision and building heights (where the

activities require the removal/alteration of notable trees). The overlay manages removals<sup>10</sup> and includes the following objective and policy for subdivision<sup>11</sup>:

- D13.2(1) Notable trees and notable groups of trees are retained and protected from inappropriate subdivision, use and development
- D13.3(2)(c) Require notable trees and notable groups of trees to be retained and protected from inappropriate subdivision, use and development, by considering the degree to which the subdivision, use or development can accommodate the protection of the tree or groups of trees.

Notable trees as a qualifying matter may affect the level of development enabled by Policy 3 and the MDRS because subdivision and new buildings are managed under the overlay in conjunction with Chapter E38 Subdivision – Urban and these impact on the ability to provide density on a site.

It is not possible to describe in general terms a typical site in areas affected by the Notable Trees Overlay in terms of how the level of development that would be prevented by accommodating the qualifying matter compared to the level of development that would be permitted by Policy 3 and the MDRS. Not only does the overlay apply in all relevant residential zones and in the Policy 3 areas, but each notable tree or notable group of trees within the overlay is also unique, has its own identified values, and the primary feature and each notable tree or group of notable trees may be located across a site or be located only on a specific part of it.

The single notation symbology or polygons in the AUP maps identify where the notable trees or notable groups of trees are located. The provisions of the Notable Trees Overlay apply within this area. In some cases, the notable trees overlay is mapped across the entirety of a site where a large group of notable trees is located and in others the overlay only covers a small portion of a site, leaving the remainder to be developed unencumbered by the overlay provisions. In some cases, a notable tree listing may be located over multiple sites and be subject to different underlying zones. It therefore follows that for some sites subject to the overlay, the level of development that would be prevented by accommodating the qualifying matter (in comparison to that enabled via Policy 3 and the MDRS) is higher than it is for other sites, where it may have minimal impact.

To be clear, for some relevant residential zone sites within the Notable Trees Overlay, the overlay will prevent the development of up to three dwellings per site, if such a development were not appropriate to the notable tree values of the particular place located on that site. Similarly, the overlay may prevent development of non-residential sites such that the intensification sought by Policy 3 is not enabled. In some zones, the notable trees overlay will likely not reduce the level of development sought to be enabled by the NPS UD.

If the Notable Trees Overlay applies fully as a qualifying matter, development via increased density as enabled by Policy 3 and the MDRS may still occur, but resource consent would need to be sought for subdivision and/or new buildings and structures in residential zones for

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<sup>10</sup> AUP D13.4.1(A7)The removal of notable trees is a discretionary activity

<sup>11</sup> AUP D13.3(2)(c)

MDRS where they require the removal and/or alteration of notable trees. The merits of each consent application would be assessed against the impact of the proposed development on the individual values of each notable tree. There are plenty of examples of development which has achieved sufficient additional density on a site subject to the Notable Trees Overlay.

Instead, consideration of the options has shown that the current approach of managing subdivision and new buildings within the overlay via the resource consent process is the most appropriate option for managing density. This option will allow for increased density where the underlying zone permits it, whilst also ensuring that the individual values of each notable tree or notable group of trees are protected whilst any intensification is undertaken.

### **4.3 Evaluation of options**

To determine the most appropriate response for notable trees as a qualifying matter, each of the options needs to be evaluated in the context of the objectives of Policy 3 and the MDRS, namely:

#### *Objective 1*

*a well-functioning urban environment that enables all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future.*

#### *Objective 2*

*a relevant residential zone provides for a variety of housing types and sizes that respond to:*

- i. housing needs and demand; and*
- ii. the neighbourhood's planned urban built character, including 3-storey buildings.*

This evaluation is outlined in Table 4.



**Table 4 – Evaluation of options for Notable Trees Overlay as a qualifying matter**

Notable Trees Overlay	Option 1 – Status quo Apply Policy 3 & MDRS / do not apply notable trees as a qualifying matter	Option 2 Apply Policy 3 & MDRS in a modified form by identifying alternative density standards (one dwelling per site in relevant residential zones)	Option 3 (preferred option) Apply notable trees as a qualifying matter in full
<p><b>Costs of applying the QM – broader social, economic, environmental, cultural</b></p>	<p><b>High cost</b> Applying Policy 3 and MDRS fully by not identifying notable trees a QM may enable the building heights and densities sought by Policy 3 and densities sought by MDRS. However, enabling this level of intensification may result in loss of identified significant values. Once lost, these values will be gone forever, representing a high cost to both current and future generations as notable tree values contribute towards a well-functioning urban environment.</p>	<p><b>Medium cost</b> Applying the MDRS in a modified form to provide for one dwelling per site as a permitted activity in relevant residential zones will contribute to a well-functioning urban environment by protecting the Notable Tree Overlay as a qualifying matter and ensuring development and intensification does not result in loss or degradation of identified notable tree values.  Applying Policy 3 in a modified form by providing lower building coverage or larger permeable area for sites that have a notable tree, rather than control on number of dwellings (with that larger space occupied by the notable tree or notable group of trees).  However, this option is indirect and may not assist people and communities to provide for the social, economic and cultural wellbeing as it effectively ‘down-zones’ some residential sites where the overlay applies – by applying a density of one dwelling per site, sites in the overlay that are currently zoned anything other than Single House zone will have additional density restrictions imposed, including in places where the heights and density provided for by Policy 3 and</p>	<p><b>Low cost</b> The Notable Trees Overlay manages the values of notable trees places. These trees contribute to a well-functioning urban environment that enables people, both current and future generations, to provide for their social, economic and cultural wellbeing. Applying the Notable Trees Overlay as a qualifying matter in full will allow the significant values of the overlay to be managed to avoid their loss or degradation. While applying the Policy 3 and MDRS to the underlying zoning may increase development pressures on sites with notable trees, the consent process associated with these provides the opportunity to ensure the trees are appropriately protected.  This option does not required the MDRS standards to be mofieid, nor Policy 3 – minimum six storeys etc. However, site by site, a notable tree or notable group of trees may reduce the developable area and so MDRS may result in three small houses rather than three big houses. Added flexibility over density assist with implementing the notable tree overlay.</p>

		density sought by MDRS can be achieved without adverse impacts on notable trees.	
<b>Costs of applying QM – housing supply / capacity</b>	<b>No cost</b> The Notable Trees Overlay would not be applied as a qualifying matter in this option so there is no cost related to housing supply / capacity.	<b>Low cost</b> The Notable Tree Overlay applies to a very small percentage of land within Auckland’s urban environment so there will be negligible cost in terms of housing supply / capacity. Notable trees within the overlay are scattered throughout residential and non-residential zones so do not impact on the ability of relevant residential zones to provide for a variety of housing types (including 3-storey buildings) and sizes. However, it would likely unnecessarily reduce achievable densities where these could be accommodated without adverse impacts on notable trees.	<b>Low cost</b> The Notable Tree Overlay applies to a very small percentage of land within Auckland’s urban environment so there will be negligible cost in terms of housing supply / capacity. Notable trees within the overlay are scattered throughout residential and non-residential zones so do not impact on the ability of relevant residential zones to provide for a variety of housing types (including 3-storey buildings) and sizes.
<b>Benefits of the QM – broader social, economic, environmental, cultural</b>	<b>Low benefit</b> Applying Policy 3 and MDRS fully may result in loss of identified significant notable tree values.	<b>High benefit</b> The significant values of notable trees are likely to be protected from inappropriate subdivision, use and development. The benefits of retaining these values are that the values contribute to a well-functioning urban environment, to both current and future generations. However, this approach would likely preclude some intensification in some places where it could be accommodated with no adverse effects on notable trees.	<b>High benefit</b> The significant values of scheduled notable trees will be protected from inappropriate subdivision, use and development. The benefits of retaining these values are that the values contribute to a well-functioning urban environment, to both current and future generations.

The following comments can be made in relation to these options:

- Options 1 should be discarded due to the low rating of one of the outcomes (high cost to identified notable tree values).
- Option 2 protects the values of identified notable trees as part of a well-functioning urban environment, but this option has a medium cost in terms of broader social, cultural and economic considerations
- Option 3 protects the values of identified notable trees as part of a well-functioning urban environment and is shown to have a low cost both in relation to the cost of applying the qualifying matter and in relation to the provision of a variety of housing types and sizes.

### 4.3.1 Risk of acting or not acting

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 information about the Notable Trees Overlay as a qualifying matter, including information about the values, location and extent of the overlay is already set out in the Unitary Plan. It is considered that this information is certain and sufficient.

## 4.4 Overall conclusion

The Notable Trees Overlay is a qualifying matter for the purpose of protecting the identified notable tree values in Tamaki Makaurau / Auckland. Trees have multiple values, including cultural heritage, intrinsic and scientific values. They also make an important contribution to amenity values. For notable trees the identified values are a mix of section 77I and 77O qualifying matters – i.e. New Zealand Coastal Policy Statement coastal environmental contributions, section 6 significant indigenous vegetation and significant habitats of indigenous fauna<sup>12</sup>, historic heritage<sup>13</sup>, cultural heritage<sup>14</sup> as well as section 7 amenity<sup>15</sup>. The proportional mix varies tree by tree but as a whole there are section 77I and 77O matters intertwined for most trees.

The impact of the qualifying matter on the level of development enabled by Policy 3 and the MDRS is low as it contributes to a well-functioning urban environment and has a very limited impact on the intensification sought by Policy 3 and the MDRS because it applies to scattered sites within only 0.7% per cent of property parcels in Auckland's urban environment.

The Notable Trees Overlay as a qualifying matter can be implemented in a way that has the least impact on the objectives by:

- retaining the management of removals and alterations as per Chapter D13 Notable Trees Overlay of the Auckland Unitary Plan as operative (and make it clear that these rules replace the rules for the same activity in the underlying one), and
- Implementing Policy 3 and the MDRS for development except for subdivision and new buildings and structures (where they require the removal of notable trees or notable groups of trees) within the Notable Trees Overlay as sought.

### **RMA s77J(4)(b)**

For relevant residential zones, the MDRS are modified only to the extent necessary to accommodate the Notable Trees Overlay as a qualifying matter. All MDRS will apply in the Notable Trees Overlay except subdivision as a controlled activity and the density standard for the number of residential units per site. The modification of MDRS will apply to the Notable Trees Overlay, as shown in the Unitary Plan maps.

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<sup>12</sup> RMA s6(c)

<sup>13</sup> RMA s6(f)

<sup>14</sup> RMA s6(e)

<sup>15</sup> RMA s7(c)

## 4.5 Information Used

The following reports, documents, evidence and plan versions were used to help development the plan change and assess the Historic Heritage Overlay as a qualifying matter.

Name of document, report, plan	How did it inform the development of the plan change
Auckland Unitary Plan - B4 Te tiaki taonga tuku iho – Natural heritage	Sets out notable trees as a key matter to be protected from inappropriate subdivision, use and development.
Auckland Unitary Plan – Chapter D13 Notable Trees Overlay	Sets out the objectives, policies and rules for: <ul style="list-style-type: none"> <li>• Evaluating notable trees, and</li> <li>• protecting notable trees from inappropriate subdivision, use and development, and</li> <li>• using sites with notable trees present appropriately.</li> </ul>
Auckland Unitary Plan – Chapter L Schedules – Schedule 10 Notable Trees Schedule	Identifies notable trees that have been evaluated as meriting inclusion on the notable tree schedule.
Auckland Unitary Plan maps	Identifies the location and extent of notable trees and notable groups of trees.
Statistics from GIS detailing the percentage of property parcels in Auckland that contain a notable tree or notable group of trees	Provided information on the level of impact of modifying Policy 3 and MDRS for the Notable Trees Overlay as a qualifying matter.
Plan Change 29 section 32 evaluation report	Provided information on the site-by-site analysis undertaken as part of the Plan Change 29 process. This information informed sections of the qualifying matters discussion relating to the effect of notable trees on development.