

2.12 Pre-1944 demolition – section 32 evaluation for the Proposed Auckland Unitary Plan

1	OVERVIEW AND PURPOSE	2
1.1	Subject Matter of this Section.....	2
1.2	Resource Management Issue to be Addressed	2
1.3	Significance of this Subject	2
1.4	Auckland Plan	3
1.5	Current Objectives, Policies, Rules and Methods	3
1.6	Information and Analysis	4
1.7	Consultation Undertaken.....	5
1.8	Decision-Making.....	6
1.9	Proposed Provisions	6
1.10	Reference to other Evaluations	6
2	OBJECTIVES, POLICIES AND RULES	7
2.1	Objective	7
3	ALTERNATIVES	9
4	CONCLUSION	11
5	RECORD OF DEVELOPMENT OF PROVISIONS	11
5.1	Information and Analysis	11
5.2	Consultation Undertaken.....	11
5.3	Decision-Making.....	11

1 Overview and Purpose

This evaluation should be read in conjunction with Part 1 in order to understand the context and approach for the evaluation and consultation undertaken in the development of the Proposed Auckland Unitary Plan (the Unitary Plan).

1.1 Subject Matter of this Section

The pre-1944 building demolition overlay applies to areas in Auckland that were settled prior to 1944. It does not include those pre-1944 settlement areas already subject to the Special character overlay.

The overlay proposes a precautionary approach to demolishing residential and non-residential buildings. It is a new approach that was developed in response to feedback from the Heritage Advisory Panel and a direction from December 2012 meeting of the Political Working Party on the Unitary Plan. It is consistent with Resource Management Act (1991) sections Section 6 (f) and 7 (c).

1.2 Resource Management Issue to be Addressed

Auckland's residents have become increasingly concerned that buildings with historic heritage value but which are not scheduled can be demolished or removed from their original location as a permitted activity. The only requirement for building removal is a building consent. Current legacy plans do recognise latent heritage values and this often leaves the Council in a difficult situation when it has granted a building consent to remove dwellings that are not scheduled but may potentially have heritage values.

Auckland has not previously had a precautionary approach to historic heritage identification but it is used in other jurisdictions such as Brisbane and California.

1.3 Significance of this Subject

A precautionary approach to historic heritage management is a new development for Auckland Council. It applies to buildings that do not have existing special character or historical heritage status. There are two elements to the rule- text and a spatial layer. The text requires an applicant to assess a dwelling or building for potential historic heritage values. If it does not have heritage value, then it may be demolished or removed. If a building does have heritage value, then it cannot be demolished or removed. This is a new safeguard for pre-1944 buildings that do not have special character or historical heritage status. It is designed to support the balance between allowing for intensification and change in Auckland's suburbs and protecting latent historic heritage and special character.

The precautionary approach will support the protection of Auckland's pre-1944 historical heritage. International evidence suggests that this will contribute to Auckland's overall amenity, design, and attractiveness to residents, visitors, and investors. Auckland is a young city-region in international terms, with an emerging social and cultural identity. Safeguards that ensure potential historic heritage is retained can make an important contribution to this identity. The precautionary policy responds to the value communities have indicated they place on special character, and potential cultural and economic returns. It also signals a constructive (collective stewardship) approach to development designed to support building owners to work with Council to consider pre-1944 buildings as potentially having special character or historic heritage.

The pre-1944 overlay covers extensive areas of Auckland's suburbs that were developed prior to 1944.

There are costs and benefits associated with the introduction of this new approach.

1.4 Auckland Plan

Auckland Plan Directive 4.2 states “Identify, protect and conserve our locally, regionally, nationally and internationally significant historic heritage.” The Auckland Plan recognises that Auckland is changing. “While change is inevitable, we must ensure our valued heritage places are sustained for present and future generations. What we build now will become the heritage of the future. We will therefore champion high-quality design and expect new development and re-development to be sympathetic to its heritage context.”

Maori cultural heritage values are protected through the special status of Auckland’s volcanic cones and diverse range of scheduled archaeological sites throughout the region.

1.5 Current Objectives, Policies, Rules and Methods

Each of the Auckland Territorial Authority legacy plans address heritage. None of them include objectives, policies and rules on protecting items that have yet to be identified. The legacy Regional Policy Statement provided for heritage to be assessed as part of extending the metropolitan urban area. Most of the legacy plans contain policies and objectives stating that new items will be added as information becomes available or advising that heritage assessments will take place as part of structure planning.

Summary table of legacy heritage management approaches:

Legacy Plan	Summary of provisions (objectives, policies and rules)
Waitakere	<ul style="list-style-type: none"> • Various heritage objectives and policies related to buildings, archaeological sites, waahi tapu • The plan dealt extensively with natural heritage through its Natural Areas Rules and supporting objectives and policies on protection of Riparian Margins and native vegetation • Specific geological sites were protected • Policies advising that heritage should be researched and protected through structure planning processes • Specific rules protecting heritage buildings, archaeological sites and waahi tapu • Special features protected on former Hobsonville Airbase as part of Plan Change 13
Isthmus	<ul style="list-style-type: none"> • Part 5C of the Plan deals with heritage and Part 7 is the residential that also covers special character zones. The plan comprehensively provides for protection of volcanic cones, residential special character zones, conservation areas, scheduled buildings, trees, objects, geological features, Maori heritage sites. • Items were progressively added to the schedules as a result of research, nominations and there were changes to special character zones to recognise different sub-groups e.g. Res 2c
Manukau	<ul style="list-style-type: none"> • Part 6 of the Manukau Plan dealt specifically with heritage. It also had “residential heritage zones”, although these were not always about retaining the architectural values of buildings and were sometimes about site size and treed qualities. • Part 6 has several schedules for buildings and objects, notable trees and stands of trees to be protected, species of trees to be protected, wetlands to be protected, geological features and areas to be protected, waahi tapu and

Rodney	<ul style="list-style-type: none"> • Chapter 17 deals with cultural heritage. It has specific rules on additions, alterations of scheduled items (trees, archaeological sites, waahi tapu relocation of heritage items) and subdivision of a site where there is a scheduled heritage item. • Rodney District has a lot of industrial heritage sites of old brickworks, cement works, Dairy company sites and Blakes Mill • Rodney recognised its special character areas through a Special Area for Puhoi and Plan Change 160 that recognised and protected the special character values of Helensville. • Warkworth business district also had a precinct/specific protection the relationship of the buildings to the river and verandah controls.
North Shore	<ul style="list-style-type: none"> • Cultural Heritage is dealt with in Chapter 11 of the Plan • The North Shore Plan had a provision that any controlled activities in a zone would become discretionary if they involved a scheduled item. • Archaeological sites, Maori traditional sites, historic buildings and structures are protected through this Plan. • North Shore took a precautionary approach to heritage protection through its structure planning approach and this is most evident at Long Bay where several extensive middens have been protected/scheduled as part of the Plan Change and Environment Court process. • North Shore did a lot of work to assess its built heritage and thoroughly document their values between 2006-2010. Plan Change 33 and 38 were the net results.
Papakura and Franklin	<ul style="list-style-type: none"> • Both legacy plans protected historic heritage, archaeological sites and sites of significance to Maori.

1.6 Information and Analysis

Auckland Council established a Heritage Advisory Panel in 2011 to provide comments and advice on a range of heritage issues. Panel membership includes leading heritage architects in Auckland, the Northern Regional Manager of the New Zealand Historic Places Trust, the Chair of the Parks Recreation and Heritage Forum and other panel members from other notable heritage organisations and backgrounds.

The Heritage Advisory Panel discussed the demolition of buildings that either are identified as special character or would have met the significance criteria for scheduling on more than one occasion in 2012. The panel subsequently issued a memo outlining a precautionary approach for identification and protection of unlisted items. The policy approach outlined by the Heritage Advisory Panel formed the basis of the rule development.

The Political Working Party directed staff in December 2012 to draft provisions and prepare maps accordingly.

Auckland Council employed Boffa Miskell consultants in 2012 to prepare maps of Auckland based on patterns of settlement. These maps formed the initial spatial content of the draft rule released in March 2013, as part of the draft Unitary Plan.

Following feedback on the March draft Unitary Plan further spatial analysis was undertaken by Auckland Council's Heritage team. The analysis showed that the pre-1944 layer had been incorrectly applied in some parts of the region. As a result, the heritage team did some further work to reduce the spatial extent of the layer and remove it from the Central Area and certain other specific locations in Auckland. The layer was removed where it was clear from aerial photography that buildings that existed in the 1940s were no longer there. The Auckland Plan Committee initially directed staff to delete certain large landholdings from the layer, in particular, land owned by Housing New Zealand and Treaty settlement land but later changed its view on 2nd September 2013.

1.7 Consultation Undertaken

Council has consulted on the pre-1944 Demolition control and taken advice from the Heritage Advisory Panel, the Political Working Party and Auckland Plan Committee. The public were able to provide comment on the content of the rule and maps through the release of the March draft Unitary Plan.

Feedback from the public can be summarised as follows:

- area of protection should be extended and applications for removal publicly notified
- the overlay should include special character from the 1950s/60s
- remove the overlay
- the precautionary approach or overlay should only apply until Council has surveyed Auckland comprehensively
- the layer has not involved street by street surveys to identify special character
- the layer will place a cost on applicants to provide assessments at the time of re-development
- the layer conflicts with planned growth

The feedback received from the public was divergent and the Council convened a control reference group. The reference group did not represent every submitter that made feedback on the rule but a representative sample of submitters. The attendees were:

Patterson Associates Architects, General Church Trust Board, Housing New Zealand, Property Council, Character Coalition representatives from South Epsom Planning Group, Remuera Heritage, Save our St Heliers, NZ Institute of Architects, Heavy Haulage, Heritage Advisory Panel, Kentigan to Kerswell Residents and the Civic Trust.

The control reference group met on 6 July 2013. The views from the reference group were:

- Large landholders are concerned that the layer will be an impediment to commercial and housing re-development
- Preference for conservation areas, special character or listed buildings
- Character coalition would like local plans, staged intensification so that heritage is assessed prior to up-zoning
- Spectrum of views on notification and retention/deletion of the layer
- Not everything that is old is good the overlay is too arbitrary.

Control reference group recommendations

The reference group suggested that Council should:

- Investigate using design statements to manage pre-1944 building stock
- Make it clear that the overlay will reduce through surveys
- Free consent fees for assessment, resourcing, simplify planning rules
- Need to assess areas comprehensively

- Find a balance between development and protection of heritage values.

A presentation was made to the Auckland Plan Committee on the 31st July and 1st of August.

1.8 Decision-Making

In December 2012 the Political Working Party directed Council staff to prepare a pre-1944 layer for the March draft of the Unitary Plan. The Political Working Party received a report in May 2013 about what further information they may need to make decisions on the issue at the end of July and early August. On 31st July and 1st of August the Auckland Plan Committee considered a presentation on historic heritage, special character and the pre-1944 layer.

The Auckland Plan Committee directed staff to:

- Keep the pre-1944 overlay but reduce the mapped area based on work undertaken since the draft Unitary Plan was released
- Remove the pre-1944 overlay from land owned by Housing New Zealand Corporation and Treaty settlement commercial redress areas.
- At the Auckland Plan Committee meeting on 2nd September councillors voted to apply the layer to Housing New Zealand land.

1.9 Proposed Provisions

The proposed Unitary Plan will make:

- Total or substantial demolition of any building, excluding accessory buildings constructed prior to 1944 ;or
- new buildings or relocated buildings at the rear of any pre-1944 building a restricted discretionary activity.

The proposed rule applies to all land covered by the overlay, irrespective of zoning. This means it may affect land zoned business, open space or residential.

The Council has restricted its discretion to assessing historic heritage, special character, total or substantial demolition or removal and new or relocated buildings located to the rear of a pre-1944 dwelling.

The proposed rule is subject to the normal tests for notification meaning that a planner will apply the tests for notification outlined in the RMA 1991.

The process will involve:

- an applicant covered by the rule obtaining a historic heritage and special character assessment of the building
- Council staff will peer review the assessment
- If a building has historic heritage values, demolition may be declined
- If a building only has special character values, then any demolition will be assessed against the special character criteria and either approved or declined
- If the building has no historic character or special character values the building may be demolished.

1.10 Reference to other Evaluations

Refer to the Section 32 Topic Matrix for reference to related section 32 evaluations. These include:

- 2.3 Residential zones
- 2.4 Business
- 2.50 Retirement Villages

2 Objectives, Policies and Rules

2.1 Objective

There are two objectives relating to the pre-1944 building demolition control. The first one seeks to retain the character and values of buildings that were constructed up until 1944. The second objective outlines that buildings should be assessed prior to demolition or removal.

Part 2, Chapter E, Section 3.2 states:

- 1. The historic heritage, character and values of buildings in parts of Auckland settled before 1944, that are not within the special character areas, are retained.*
- 2. Areas included in the pre-1944 layer are appropriately evaluated against historic heritage and special character values prior to demolition or removal*

Appropriateness of the Objective(s)

Relevance

The objective is related to “the protection of historic heritage from inappropriate subdivision, use and development” under s6(f) of the RMA. The overlay is implicitly stating that all buildings constructed prior to 1944 may have historic heritage or special character value. The purpose of the overlay is to trigger an assessment of buildings should an applicant be proposing substantial demolition, new or relocated buildings at the rear of any pre-1944 building

Usefulness

The objective explains that any historic heritage or special character of buildings constructed before 1944 should be retained. The objective will have an effect on the final built form of several residential and business zones because it will require new buildings to be located behind existing buildings that are found to have special character or historic heritage values. The overlay seeks to achieve a balance between the enabling provisions of the underlying zoning and retaining special character or historic heritage buildings that may not be scheduled or covered by a special character overlay.

Achievability

The council has the ability to protect historic heritage and there is acceptance of protecting special character. This overlay is taking a precautionary approach to heritage protection.

Reasonableness

The overlay is essentially stating that buildings covered by the spatial layer will need a heritage assessment that will be considered by Auckland Council prior to demolition or removal. The precautionary approach is novel for the Auckland region but is established in overseas jurisdictions. Section 6(f) of the Resource Management Act 1991 requires Council to protect historic heritage and section 7 provides for amenity and character protection which the overlay is giving effect to.

Legacy issues

None of the legacy plans protected all buildings prior to 1944. The Auckland Isthmus Plan introduced Residential 1-3 special character zones initially with no demolition controls. These were introduced later. There has been a series of appeals through Plan Change 163 that have challenged blanket protection of entire suburbs. This overlay is a novel approach to resolving the conflicts between growth and sustainable management of heritage.

2.1.1 Policies

Part 2, Chapter E, Section 3.2 policies state:

1. *Identify those parts of Auckland that were settled pre-1944 and are not currently subject to the historic heritage or special character overlay.*
2. *Manage the demolition and removal of buildings within the pre-1944 settlement areas, so that:*
 - a. *buildings with significant historic heritage values are retained*
 - b. *groups of buildings with significant special character values, including architectural values and contribute to the distinctive quality of the neighbourhood or streetscape are retained.*
3. *Amend the pre-1944 building demolition control overlay through a plan change once historic heritage and character areas assessments have been complete, and either historic heritage and /or special character places have been identified and included in the Unitary Plan through a plan change.*
4. *Allow an additional building to be constructed at the rear of a confirmed pre-1944 building, provided it does not compromise the historic heritage or character values of the pre-1944 building or the contribution that building makes to the streetscape or neighbourhood*

The policies seek to fulfil the two objectives of the overlay which are to retain historic heritage, special character values and streetscape character of suburbs developed before 1944. In cases where there is confirmed historic heritage or special character values, the proposed objectives, policies and rules would restrict any new development to the rear of sites. This puts the onus on applicants to provide council with an honest appraisal of their building in terms of its historic heritage value or special character.

There is the potential for public notification of any demolition application if a building is assessed as having historic heritage or special character. This will be a strong incentive for applicants to retain buildings of value and design new ones to respect existing special character.

2.1.2 Rules and other methods

The proposed provisions are summarised in 1.9 above. The provisions are achievable as applicants will need to provide a heritage assessment at the time of application for substantial demolition or removal of existing dwellings or commercial buildings. The Council's reporting planner will then forward a copy of the application and assessment to the heritage team for comment in the same way that this currently already occurs for additions and alterations to special character/historic heritage buildings. It is considered that the provisions will be effective in retaining buildings that have heritage or special character value. Any pre-1944 buildings covered by the overlay that are demolished will have been assessed by a council heritage built specialist and agreed that it does not have any value.

2.1.3 Costs and Benefits of Proposed Policies and Rules

There are likely to be direct and indirect costs and benefits associated with the pre-1944 Demolition control policy.

The direct cost to applicants associated with the rule will be conservation architect services to assess the historic values of a building. In most cases, a conservation architect will use a historian to research the building consents file, research any documented histories, a certificate of title and any council records from archives or the rates system and any relevant secondary sources. The conservation architect would need to visit the site and to do a thorough assessment and access the building and the site to prepare a report with photographs and recommendations. The costs of this type of assessment may vary considerably from \$3,500 for a building with no established values to around \$7,000 if a building has demonstrated values and there is a sound body of evidence to support it. Indirect costs for applicants may include potential for delays caused by the commissioning of these reports prior to lodgement with Council, and delays caused by Council's process to

reach a decision.. The rule may also affect the property values of sites covered by the overlay. Some landowners and purchasers may choose to retain sites as “single houses” and not risk re-development. This could have an impact on growth projections for Auckland, with more intensification required in other parts of Auckland. The overlay could also have a similar effect on business zoned land and curtail or limit re-development opportunities. The costs to the public at large if more dwellings are demolished that have heritage or special character value is that Auckland will lose its tangible links with the past.

The benefits of the proposed policies and rules are that the community should have some confidence that the council will peer review heritage assessments and have the ability to decline resource consent applications for demolition or relocation of special character and historic heritage buildings that have not yet been scheduled. The rules may also lead to more tailored intensification in suburbs where there are special character values and there may be a greater demand for new dwellings in these traditional suburbs where the new architecture respects the existing built form and streetscapes. Ultimately, if special character and heritage is protected, it can be enjoyed by future generations.

2.1.4 Adequacy of Information and Risk of Not Acting

It is considered that there is sufficient information on which to base the proposed policies and methods.

3 Alternatives

The proposed preferred alternative is discussed in 2.0 above. The status quo alternative is outlined in 1.5 above.

Alternatives are:

1. Status quo - Retain special character and historic heritage only
2. Alternative 1 Preferred - proposed objectives, policies and rules
3. Alternative 2 Retain the overlay but reduce it and re-draft the demolition control to only require assessment for historic heritage

The table below discusses each alternative compared to the Proposed Alternative:

	Status Quo Alternative - Retain existing	Alternative 1 - Preferred	Alternative 2
Appropriateness	The current non-notification provisions would still support the objectives but make it clear that the assessment of heritage or special character values and design are matters best dealt with by staff and do not require public input unless there are special circumstances.	The rule is subject to the normal tests for notification. The rule is considered to be an appropriate response to the resource management issue of heritage loss.	Retention of the overlay but restricting it to consideration of historic heritage would mean applicants would only need to assess for one level of significance (Category B).
Effectiveness	The special character overlay is generally non-notified currently. Applications for additions and alterations of Category B buildings are generally processed on a non-notified basis but demolition applications are publicly notified. The current provisions are effective. In terms of notification, the planning burden needs to be commensurate with the planning benefit. This means that applicants should not have to risk public notification where they are doing what the plan intends.	The potential for notification of applications in the pre-1944 demolition overlay is effective because it will deter applicants from continuing with applications for demolition where there are heritage or special character values. Applicants will be more likely to design sympathetically or find sites to re-develop that are not covered by the overlay.	The objectives would need to be re-drafted to remove any reference to special character. Items with only special character would still be eligible for demolition.
Efficiency	The current provisions are considered to be effective. However, there has been public criticism of the lack of notification of demolition proposals for special character areas. It is unclear whether public notification alone would have changed the outcomes for a relatively small percentage of applications.	The proposed approach is efficient because it is targeted based on a spatial data layer that has been verified by the heritage team. The normal tests for notification provide applicants with a strong incentive to design according to the known values and achieve suitable outcomes, balancing interests	There would be no difference in efficiency between this option and the preferred option. It would take the same amount of effort by the applicant and council to prepare and assess applications. The non-notification would still apply.
Costs	The costs of retaining only the special character and historic heritage layers will not change. They are well established and have been known for the last 20 years. Some of Auckland's highest value properties are located within these areas. The opportunity costs of retaining special character and heritage are that these areas and buildings cannot be demolished easily. As relatively intact suburbs and heritage sites they add value, public memory of patterns of settlement and show a transition in different periods of development. Retention of heritage and special character add to a city's identity and culture.	The costs associated with the proposed rule will mean that developers and purchasers will take this into account in deciding what risks they wish to take re-developing a site and factor it in as part of their due diligence. The proposed rule is subject to the normal tests for notification. Notified resource consents typically costs around \$11,400 or more with additional time taken for processing. This means that applicants will weigh up the potential costs in arriving at a re-development proposal.	There may be a slight drop in price for an applicant to only have to assess for historic heritage, not special character. However, the overall cost savings would be around certainty that an application would be processed on a non-notified basis.
Benefits	The benefits of the current special character and historic heritage layer are: cultural/identity values of intact buildings and suburbs, there is a contrast between old and newer periods of development, most cities in the world retain heritage and character areas to varying levels. The opportunity costs of not retaining these are that the sites are not capable of being re-developed to their highest and best economic use e.g. demolishing a heritage building in the Central Area to construct a 27 level building as opposed to retaining a 4 storey heritage building.	The benefits of the proposed rule are that genuine items of heritage value will be protected for future generations and the public can have some confidence that the council is taking a precautionary approach to heritage identification and management. Some developers may create a niche for gentle intensification around existing buildings. The benefits of making applications subject to the normal tests for notification are that it means applicants will be unlikely to demolish buildings that have heritage or special character value.	The benefits of this approach are that the spatial extent of the rule would decrease and applicants would only have to assess for the much higher test of historic heritage significance. However, this would not tackle the issues raised by the community around loss of latent historic heritage and special character.
Risks	The risks of acting are that there is an established pathway for consents, changes to notification should be carefully considered. The preparation of the Unitary Plan provides an appropriate vehicle to make selective changes.	The risks of acting are considered to be minor. Community groups should have confidence that council staff will assess applications and publicly notify those ones which meet the RMA tests. Other heritage agencies such as the NZ Historic Places Trust do not publicly advertise authority applications for destruction/demolition/modification of archaeological sites.	The risk of this approach is that special character buildings could still be demolished as a permitted activity.

4 Conclusion

Based on the above discussion, the following conclusions are drawn:

The pre-1944 building demolition control overlay has been developed by Council in response to public concern echoed by the Heritage Panel that there is still loss occurring in Auckland of latent or unknown historic heritage and special character buildings. The overlay builds on spatial data prepared for Council by Boffa Miskell consultants and provides a reasonable balance between requiring a restricted discretionary activity consent for works and an applicant having certainty that the outcome of that discussion will be on a non-notified basis. The proposed rule should allow for some gentle intensification to occur around buildings that are shown to have heritage value. The proposed rule also acts as a useful check and balance where buildings are demolished but have no particular special character of heritage value. As Auckland grows, it needs to still retain the things it values as a community.

5 Record of Development of Provisions

5.1 Information and Analysis

- Boffa Miskell consultants heritage study outlining patterns of settlement:
- Memo from the Heritage Panel 2012
- Political Working Party December 2012- instruct staff to develop the overlay
- March draft and public feedback
- Pre-1944 Reference Group
- Presentation to the Auckland Plan Committee 1/8/13
- Brisbane pre-1945 demolition control
- Californian pre-cautionary approach/comparison
- Resource Management Act 1991
- Historic Places Act 1993

Appendices

Appendix 3.12.1 Development of the Unitary Plan Pre-1944 Demolition Control Overlay

5.2 Consultation Undertaken

- Auckland Council employed Boffa Miskell consultants to prepare a heritage study outlining patterns of settlement.
- Memo from the Heritage Panel 2012
- Political Working Party December 2012 – instruct staff to develop the overlay
- March draft and public feedback
- Pre-1944 Reference Group
- Presentation to the Auckland Plan Committee 1/8/13

5.3 Decision-Making

- PWP 12 December 2012 “UP to remain silent on notification for demolition of existing special character. Officers to apply standard section 95 tests on a case by case basis to determine if notification should apply.” Pages 11 & 12 of the minutes state that the overlay should be non-notified because it is outside of special character.
- May presentation to the PWP
- 31st July and 1 August presentation to the Auckland Plan Committee
- Further consideration at APC – TBA.