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# AUCKLAND UNITARY PLAN

**Report To: Internal Steering Group**

**Report Name: Issues Paper – Heritage**

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## 1. Executive Summary

This report contains the core issues relating to Heritage. The research which informs this report is based on a review of published research papers, Auckland legacy planning documents and internal consultation with subject matter experts from Unitary Plan, Heritage and Operative Plans teams.

This report outlines the key issues associated with each topic and broad regulatory and non regulatory approaches that could be explored further through the development of the Unitary Plan.

Exclusions from this section:

<b>Subject</b>	<b>Main Work stream</b>
Natural character	Rural & Coastal
Biodiversity	Natural Environment
Growth and Development	Built Environment
Built Form and Character	Built Environment
Central City	Built Environment

The report has been split into three sections (natural, cultural and historic), however the priority issues and broad approaches are summarised below:-

### 1.1 Natural Heritage

Natural heritage issues and approaches are outlined in **section 4** of this report. The following priority issues are identified for Natural Heritage:-

#### *Natural landscapes and features*

1. Protecting Outstanding Natural Landscapes and Outstanding Natural Features from Inappropriate Subdivision, Use and Development
2. Protecting the visual integrity of the Volcanic Cones
3. Managing the effects of change on the landscapes and amenity values of Auckland.
4. The need to maintain or upgrade regionally significant infrastructure can result in significant adverse visual effects on the landscape

#### *Notable and scheduled trees*

5. Trees that are identified as significant or notable should be afforded an appropriate level of protection

#### *General tree protection*

6. Trees that are not notable or significant ecological features may need some level of protection.
7. Restrictions on the removal or trimming/pruning of trees on private land is contentious and high profile
8. There is a lack of understanding about the relationship between plan provisions relating to trees, and the state of the resource, particularly in urban areas.

The broad approaches to respond to the issues seek to:

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## Broad approach

### Regulatory

#### *Natural Landscapes and Features*

- Undertake further work to identify, assess and map regional and district level Outstanding Natural Landscapes, Outstanding Natural Features, Significant Volcanic Features and Significant Geological Features, using criteria in line with recent changes to legislation and case law.
- Provide clear guidance on the management and protection of the values of these features.
- Explore the use of controls on establishment of new buildings, vegetation clearance, subdivision, earthworks, riparian planting in line with the direction set by Change 8 to the ARPS, recent legislation (national policy statements) and relevant case law.
- Develop a policy framework that provides a clear direction on how landscape values can be managed.
- Develop a policy framework that requires the consideration of landscape values to be a consideration in the design and location of regionally significant infrastructure;
- Identify view shafts and height sensitive areas within the Plan.
- Explore the use of transferrable development rights in areas most sensitive to change.

#### *Protecting amenity and landscape values in Auckland'*

- Explore timeframes to undertake a region-wide landscape assessment that to assess landscape types and develop landscape management areas at a district (local) scale for the Auckland region.
- Develop a policy response to provide clarity on what type of development is and is not acceptable within the different landscape types and address by way of zone or overlay and provide clear direction on how landscape values can be managed.
- Develop design guidelines that would be linked to policies to provide guidance on acceptable management approaches within different landscapes.
- In areas under pressure from growth undertake more detailed spatial planning to respond to Landscape issues and consider the use of the thematic layering approach to identify the range of landscape values (heritage, landscape, cultural) associated with a particular area.

#### *Notable and scheduled trees*

- Carry out work to decide on a single region wide methodology assess if a tree should be included in the Unitary Plan schedule, and carry out a review of the existing schedules based on this methodology
- Develop an appropriate policy and regulatory response, including identifying appropriate permitted region wide activities for all notable trees

#### *General tree protection*

- Consider where general tree protection rules could be appropriate in the Unitary Plan
- Simplify any general tree protection rules used
- Consideration of a reasonable set of permitted exceptions to the tree protection rules

### Non Regulatory

#### *Natural landscapes and features*

- Explore opportunities for the use of covenants, incentives, rates relief, funding to encourage landowners to support landscape protection, management restoration and enhancement in line with the direction set by Change 8 to the ARPS.
- Develop tool kits / design guidelines that outline key things to consider when undertaking a development that will be in the vicinity of the range of outstanding and significant features.
- Work with community groups to undertake environmental initiatives to enhance or remediate degraded landscapes and features.
- Engage with key stakeholders such as Department of Conservation, Environmental Groups, Renewable Electricity Generators and Energy Efficiency Conservation Authority to

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develop a policy framework that provides a balanced approach to the management of outstanding natural landscapes.

- Explore the use of an alert layer within GIS to map areas that are unsuitable for renewable electricity generation to go.
- Identify opportunities for public / private partnerships to work with renewable electricity generators to identify suitable sites, early in the planning stage.

*Notable, scheduled and general tree protection*

- Explore a range of non-regulatory methods to support the retention of trees on private land.
- Explore ways that the consenting process for general tree protection could be streamlined and made easier for applicants

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## 1.2 Sites and Areas of Significance to Maori

The issues and approaches relating to Sites and Areas of Significance to Maori are outlined in **section 5** of this report. The following priority issues are identified:-

1. Development of criteria for identifying Maori sites of significance
2. Identification and management of sites of significance to Maori
3. Management of sites of significance to Maori that are not identified through the Unitary Plan
4. Recognising that cultural landscape values are important in their own right and understanding the relationship with other scheduled features.

The broad approaches to respond to the issues seek to:

### Broad approach

#### Regulatory

- Work with Mana Whenua groups individually or collectively to develop a set of criteria that they endorse and that are in line with relevant legislation and case law.
- Develop a policy framework that provides clear guidance on the process to follow and criteria to use for the identification, management and protection of new sites of significance as they become known.
- Explore the inclusion of a Overlay within the Plan, to record cultural landscapes, sites of significance to Maori for the region where they have previously been recorded in historical records, research projects, treaty settlement legislation and through Iwi consultation;
- Include policies and rules that enable the council to assess, and where appropriate decline, activities that diminish, remove or demolish heritage places, trees, features, sites of significance to Maori, or archaeological sites;
- Explore the development of a protocol for knowledge management for information that may not be contained in the Plan (included as a policy in the Unitary Plan or alongside)
- For sites that are not yet identified or that Maori consider too sensitive to include within the Plan, investigate alternative approaches for their protection:-
  - Development of objectives and policies that provide clear guidance on the management of unidentified sites;
  - Inclusion of accidental discovery protocols for certain activities such as earthworks;
  - Requirement for iwi consultation / cultural heritage assessments to be undertaken in areas where there is a high likelihood that cultural values / sites exist (e.g. 2 km inland from the coast);
- Where cultural landscapes / values are associated with other scheduled items, ensure there is a clear cross reference to the cultural heritage policies and methods in the Plan;
- Develop a policy framework that provides clarity on when and how Maori should be involved in consent processes.
- Explore opportunities for co-governance / co-management arrangements for consent applications within cultural landscapes or where cultural values are identified.
- Explore opportunities for Iwi organisations to become enabled to be Heritage Protection Authorities.
- Utilise commissioners in resource consent hearings with expert Maori knowledge.
- Ensure terminology within the Plan relating to cultural heritage is clear and understood.
- Explore options as a result of treaty settlements and under the RMA for section 33 – transfer of powers or section 36 B-E joint management where appropriate.

#### Non Regulatory

- Build the capacity of Maori to develop an agreed set of criteria for the protection of sites and areas of significance, and to further develop mapping and research. Where this

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cannot be achieved within the timeframes of the Unitary Plan by providing research funding for this work to be completed.

- Keep a register of new sites that are identified that Maori would like to include in the Plan and incorporate them into the Plan through regular reviews / Plan changes as required.
- Use GIS layers to specify relevant Iwi to consult as affected parties if sites of significance are identified.
- Work in partnership with Maori to prepare a protocol for managing knowledge relating to iwi intellectual property and information pertaining to Maori sites of significance.
- Build the capacity of Maori to undertake their own cultural heritage mapping, by providing resources to support further research, GIS mapping, archaeological surveys and the development of Iwi Management Plans.
- Develop tool kits to help planners understand a knowledge management protocol and associated Maori interests when processing applications.
- Processing Planners educated to identify and understand the issues.
- Working with private land owners, incentives and education, to facilitate traditional use/customs and practice.
- Develop toolkits that provide guidance to practitioners / public on “other methods” in which the practices, the stories, the whakapapa about that landscape can be reflected.

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## 1.3 Historic Heritage

Historic heritage issues and approaches are outlined in **section 6** of this report. The following priority issues are identified for Historic Heritage:-

1. Management, protection and conservation
2. Robust information
3. Shared understanding
4. Development pressures and opportunities.

The broad approaches to respond to the issues seek to:

### Broad approach

#### Regulatory

- Development of region wide provisions that require the appropriate management, protection and conservation of historic heritage, including the surroundings and context.
- Development of region wide criteria for assessing historic heritage significance and an associated methodology.
- Development of a consistent region wide schedule of historic heritage, based predominantly on 'rolling over' existing scheduled items.
- In addition to existing scheduled items, consideration of following items, places and areas of historic heritage:
  - Prioritised public proposals;
  - NZHPT register of historic places, when not already contained in schedules;
  - Draft Auckland Regional Policy Statement historic heritage schedule, when not already contained in schedules;
  - Auckland Regional Plan: Coastal historic heritage schedule, when there is not consistency across the coastal marine area boundary.
- Map items, places and areas of historic heritage in a consistent way across the region.
- Development of region wide provisions that require, due to incomplete knowledge and the complex and evolving nature of historic heritage, a cautious or a precautionary approach be adopted including consideration of:
  - Ensuring discretion within decision making to consider known and also subsequently discovered historic heritage; this may require a movement away from existing permitted activity status for demolition and/or earthworks;
  - Developing robust resource consent information requirements specific to historic heritage.
- Development of agreed definitions and use of consistent terminology within the Unitary Plan for historic heritage and historic character.
- Development of region wide provisions that recognise that historic heritage is interdisciplinary, layered and can involve intangible values, such as waahi tapu.
- Development of region wide provisions that recognise that areas and landscapes may have a historic heritage value above and beyond the individual value of a particular item or place, for example significant groupings that are of collective value.
- Development of region wide provisions that recognise that historic heritage is not limited to those features included within the schedules.
- Roll over existing provisions that recognise and 'protect' items, places and areas of significant historic character.
- Development of a work programme, over a longer time frame than that of the Unitary Plan, to ensure appropriate and consistent identification (including significance criteria and associated methodology) and tools for the management of items, places and areas of significant historic character within the Unitary Plan.

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- Development of region wide provisions that ensure that heritage is seen as an opportunity and that different degrees of heritage values require different degrees of heritage management, conservation and protection.
  - Provision of historic heritage input into area spatial planning, including the development of a methodology that recognises the opportunities to reveal and enhance historic heritage and the benefits of this in place making.
  - Review of the historic character provisions within central area, particularly the Queen Street valley and Karangahape Road ridge.
  - Review of transferable development provisions within the central city to encourage and support good practice heritage management, protection and conservation.
  - Development of a work programme, over a longer timeframe than that of the Unitary Plan, to ensure appropriate and consistent identification and management of items, places and areas of significant historic character.

### **Non Regulatory**

- Use incentives including rates relief, grants and guidelines to encourage and inform good practice heritage management, protection and conservation.
- Continuing development of a historic heritage approach that is holistic, interdisciplinary and recognises interrelationships.
- Development of a thematic framework, region wide.
- Development of a work programme, over a longer timeframe than that of the Unitary Plan, to ensure appropriate recognition of all heritage themes, both regional and local, within the Unitary Plan.
- Development of a work programme, over a longer timeframe than that of the Unitary Plan, to review the information on existing scheduled items, places and areas.
- Development of an archaeological alert layer and/or predictive modelling.
- Development of a shared understanding of our historic heritage, including a shared language, between Council, experts and the community.
- Involve Iwi in the identification, management, conservation and protection of places of cultural significance to Maori and ensure the recognition of Iwi expertise and authority of such places.
- Involve and engage with local communities in the on-going identification of historic heritage and areas of significant historic character.
- Development and on-going operation of the Historic Heritage Advisory Panel as a collaborative approach between the Council, heritage experts and the community.
- Celebration of successful heritage outcomes.
- Utilisation of the opportunities provided by the presence of historic heritage in 'place making' activities across the region.
- Provision of expert advice including the review of existing and preparation of new design guidelines.
- Continuation of heritage expertise on the Council's Urban Design Panel.
- Research into and understanding of international and national best practice to continue to evolve and refine our approach, both regulatory and non-regulatory, so that it is cutting edge and effective in the management, conservation and protection of historic heritage and significant areas of historic character.
- Development of key indicators of successful heritage outcomes and on-going monitoring.

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## 2. Legislative requirements

The following are the statutory considerations of relevance to Heritage:

- Resource Management Act 1991 (and amendments)
- Local Government Act 2002
- Historic Places Act 1993
- Waitakere Ranges Heritage Area Act 2008
- Hauraki Gulf Marine Park Act
- New Zealand Coastal Policy Statement 2010 (NZCPS)
- National Policy Statement on Renewable Energy
- The Proposed National Policy Statement on Biodiversity
- The Proposed National Policy Statement on Freshwater
- Local Government (Auckland Council) Act 2009
- Local Government Amendment Act

Councils have responsibilities under various pieces of legislation for heritage management and protection, notably the Resource Management Act, Historic Places Act, Building Act and Local Government Act.

A more detailed summary of the legislative requirements is contained in **Appendix A** to this report.



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## 3. Context

### 3.1 Natural Heritage

#### 3.1.1 Outstanding natural landscapes

Change 8 to the Auckland Regional Policy Statement (ARPS) was notified on 26 September 2005. The change was the culmination point of almost ten years of research and work by the Auckland Regional Council (ARC) and territorial authorities to jointly review and update their respective regional and district plans.

Change 8 resulted in a review of the existing mapped Outstanding Natural Landscape areas in the operative ARPS (these were based on the 1984 Regional Landscape Assessment report). Change 8 resulted in updated outstanding natural landscape maps and amendments to the ARPS objectives and policies relating to the identification, protection and management of outstanding natural landscapes.

As a result of submissions on Change 8, a further landscape review was commissioned by ARC in 2008 to apply nationally accepted landscape assessment criteria (WESI<sup>1</sup> criteria) to the same study area.

Decisions on the landscape component of Change 8 were released on 27 October 2010. Ten appeals were received and ten are still unresolved.

The key unresolved appeals relate to:

- Provision for quarrying within outstanding natural landscapes
- Location of sites for wind energy adjacent to outstanding natural landscapes
- Underground infrastructure within outstanding natural landscapes
- Definition of regionally significant infrastructure
- Site specific

#### 3.1.2 Amenity and Landscape Values

There are other landscapes in the Auckland Region that are important for their amenity and landscape values. These areas can include:-

- Urban landscapes (historic buildings or precincts, public open space, natural features)
- Rural, coastal and island areas (ridgelines, slope faces, prominent landforms, water bodies, patterning of indigenous vegetation).
- Areas adjacent to Outstanding Natural Landscapes and Outstanding Natural Features.

Policy 6.4.22.2 and method 6.4.23.4 within Change 8 to the ARPS encouraged district plans and the regional coastal plan to identify and manage adverse effects of subdivision, use and development on landscapes that are important to regional and local amenity and landscape values. To date amenity and landscape values have not been consistently addressed through regional or district plans.

As part of the draft ARPS review the ARC engaged consultants to characterise the regions landscapes. This assessment was undertaken as a desk top study and identified 8 landscape types and 32 individual landscape management areas within those larger landscape types. These

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<sup>1</sup> The WESI criteria are a set of landscape assessment criteria developed by professional landscape architects, which have been subsequently endorsed by the Environment Court in various decisions involving landscape matters. A modified version of these criteria has now been incorporated into the proposed New Zealand Coastal Policy Statement 2010 in Policy 15 for the identification of OUTSTANDING NATURAL LANDSCAPES.

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areas were defined and mapped on the basis of the underlying GIS landscape data sets. Key landscape management issues were identified for each landscape management area which would inform the development of a policy response.

The report in its current form is only suitable for use at a regional scale and does not take into account more detailed landscape assessments that have been undertaken at a district (local) level. e.g. Proposed Hauraki Gulf Islands District Plan.

A detailed assessment of amenity and landscape values within the Auckland Region has not yet been undertaken at a district (local) scale. There are a number of Plan Changes within the Auckland region that have or are currently in the process of addressing amenity landscapes. The age of the supporting landscape assessments, methodology, criteria and approaches are all different. However a number of the rural plans (Rodney, Franklin) have been through a significant amount of work.

In order to develop an appropriate response amenity and landscape values need to be mapped at a district (local) level. Public consultation on the values of these areas also needs to be undertaken however this may not be achievable within the given timeframes of the Unitary Plan.

### **3.1.3 Outstanding natural features and Volcanic Viewshafts**

Change 8 to the Auckland Regional Policy Statement (ARPS) focused on the identification of Regionally Significant Volcanic Features and from those identified Outstanding Natural Features (ONFs). Change 8 amended the ARPS to reflect the revised assessment of the view shafts to regionally significant volcanic cones, including adding 34 new, or amending or deleting 24 existing view shafts, and included new objectives and policies relating to the management of the Auckland volcanic field and views to significant volcanic cones. Change 8 did not include a review of the significant geological features of the Auckland region, rather it focused on identifying a more appropriate policy approach to volcanic features already identified in Appendix B of the ARPS.

Decisions were made on the submissions relating to volcanic features, including the view shaft components of Change 8 on 14 January 2008, and the five appeals received were resolved on 19 October 2010. The volcanic features and view shaft components of Change 8 are now operative.

### **3.1.4 Significant geological features**

The operative ARPS is over 10 years old and identifies only a small selection of the known significant geological sites in Auckland. Most of the legacy plans have used the Geo-preservation Inventory as a basis for identifying significant geological features. The geo-preservation inventory does not protect geological features, therefore it is important that these are identified and protected through the Unitary Plan.

The criteria and methods for the identification and protection of significant geological features also needs to align with legislative changes to the RMA and through relevant Environment Court case law, that has come into effect since the Plans were made operative. In particular, legislation such as Hauraki Gulf Marine Park Act 2000 and the Waitakere Ranges Heritage Protection Act 2008 (WRHPA) require the values of significant landforms and geological features to be recognised in Plans.

There is still further work required in terms of the identification and protection of significant geological features in the Unitary Plan.

### **3.1.5 Notable or Scheduled Trees**

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These are individual trees which are listed in a schedule in the District Plan and whose location are depicted on the Planning Maps as being notable or significant for some reason. This method can also apply to groups of trees but usually each individual tree is listed in the schedule.

Trees that have been included in the plan as 'notable' meet a set of criteria which has deemed them as being significant for some reason. A notable tree may have been listed due to its botanical, landscape, historic or ecological values. Usually assessments are made using a STEM analysis. This is a method that looks at a range of attributes of which each is assigned a score. A total score is then calculated. Different Councils have different variations of this analysis and different scores at which they consider a tree as being notable.

There are a total of 3690 trees scheduled in the existing Auckland Plans. A list of these are contained in **Appendix B** of this report.

### **3.1.6 General Tree Protection**

General tree protection covers trees and groups of trees that are not explicitly listed in the District Plan. These rules can cover individual trees which may have amenity values through to groups of trees that have ecological values but do not qualify as being significant ecological areas. An example of a general tree protection rule would be that in a certain area such as a residential zone all trees of a particular species or type are protected over a certain height and girth.

While this can seem a rather crude and broad brush tool it enables Council to protect trees that are not identified as notable or as significant ecological areas but are still likely to have value.

Through the Resource Management (Simplifying and Streamlining) Amendment Act 2009, restrictions have been placed on the ability of Councils to use rules to protect trees in urban environments (as defined by the Amendment Act). The Council has recently received guidance from the Environment Court as to how to interpret the Act, including giving direction on the legality of some rules from the Auckland District Plan (which were put forward for the Court's consideration). Legal advice has also been sought in relation to other District Plan rules for which the Court did not give explicit direction. The upshot of this greater legal clarity is that the Council can utilize some, but not all of the mechanisms currently utilized by the Auckland Council District Plan to protect urban trees. The Council must be confident that any rules in the Unitary Plan to protect trees in urban environments comply with the requirements of the RMA (as amended).

In conjunction with general tree protection rules Councils also employ methods such as the use of assessment criteria and conditions of consent in order to protect trees on a property. They also require, through the use of information requirements, that any trees are identified on a scheme plan with applications for resource consent. Councils also include rules that relate to the protection of trees on road reserves and public reserves. Additionally, most plans require that large scale developments (e.g development of new urban areas, or the redevelopment of existing areas) be undertaken via a comprehensive development plan such as a structure plan. This approach also enables a comprehensive assessment of the values and issues associated with trees on the site in question.

The general tree protection rules in the existing Auckland District Plans are numerous and complex. They can be used to protect trees in urban areas, rural areas and in zone or policy area. General tree protection rules can also be used across all zones for example a rule that requires the protection of mature trees or a particular species that are greater than a specified height and girth.

There are also a number of very detailed and lengthy permitted activity conditions where the trimming or removal of trees is permitted. These are the exceptions from the general tree protection rules are provided. This can include particular species of trees such as fruit trees and pest plant species, or for works in relation to parks, or undertaken by network utility operators. These permitted exceptions vary in each plan. While there has been some work to standardize the approach across the region to trimming and pruning as a result of the RMA changes, there is still a great deal of inconsistency when considering the full range of permitted exceptions.

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### 3.1.7 Significant Ecological Areas

This is dealt with in separate report but is relevant to provide context for this report. Significant ecological areas are areas of indigenous biodiversity which are identified as significant in terms of s6 of the RMA. These areas are also usually listed in a schedule and shown in the Planning Maps but are larger in area and are valued for their habitat and ecological values as opposed to the value of each individual tree.

## 3.2 Cultural Heritage

### 3.2.1 Sites / Areas of Significance to Maori

The Heritage chapters of District Plans usually identify sites of significance to Maori such as midden sites, waahi tapu and other taonga are managed and protected and provide guidance on how they should be managed in relation to the adverse effects of land use, subdivision and development.

Some Plans do not specifically list areas of waahi tapu at the request of Iwi due to the culturally sensitive nature of these features. This has meant that the recording of these sites is held in a number of places, and not always accessible to the public or general council staff. Where cultural heritage and waahi tapu are protected in plans, methods are included to ensure that they are considered and protected. A number of plans also include accidental discovery protocols for earthworks in the likelihood anything is discovered.

Where cultural heritage information is not included in Plans there is a heavy reliance on consultation with Maori to identify these values and features. If it is not mandated within the Plan that Iwi consultation is required there is the potential for this to be overlooked and valuable sites and features to be destroyed or lost

With the 2005 Resource Management Act amendments section 36A was introduced. Section 36A states that there is no duty to consult, so unless the requirement for consultation is explicit within the Plans themselves, consultation with Maori may be overlooked. While the fourth schedule does require consideration of any actual or potential effects on natural or physical resources that have *“aesthetic, recreational, scientific, historical, spiritual, or cultural, or other special value for present or future generations”* where assessment is restricted to assessment criteria the fourth schedule is not utilized to its full potential. Unless iwi consultation is able to be demonstrated at lodgment stage, the majority of times it is not possible to understand whether there is an adverse effect on cultural values. The majority of Plans do not provide explicit direction on who and when to consult. Now with changes to processing timeframes there is more emphasis on the need for this to be demonstrated at the time of lodgment in order for cultural values to be considered as part of the assessment of resource consents.

### 3.2.2 Cultural landscapes

The need to identify cultural values associated with natural and physical resources is identified in the following gazetted and proposed National Policy Statements:-

Policy 15, to the New Zealand Coastal Policy Statement identifies the need for cultural and spiritual values for Maori to be identified by working, as far as practicable, in accordance with tikanga Maori; including their expression as cultural landscapes and features.

Policy 7, to the Proposed National Policy Statement on Biodiversity, identifies the need to recognise and provide for the role of Maori as kaitiaki, when developing and implementing regional policy statements and regional and district plans and for Maori values and interests to be incorporated into the management of biodiversity;

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Policy 1(e) of the Proposed National Policy Statement on Freshwater Management also identified the need for Maori values and interests in respect of all freshwater resources of the region.

Cultural values apply to a range of natural and physical resources in the region, it is important that a consistent approach is developed to identifying and managing this information.

Historically information on cultural values has not been well recorded in Plans as this information is a taonga (treasure) and iwi may prefer not to include sensitive sites such as Urupa (burial grounds) within Plans.

Treaty Settlements provide an agreed historical account of an Iwi groups historical association with an area and can now form the basis for this information to be mapped. Further work is required to fill gaps in knowledge of areas that are not subject to settlements. This can partly be filled through the review of existing and development of new iwi management plans.

Consultation with iwi is essential in developing an approach for the identification of cultural values associated with landscapes, ecological, coastal and freshwater areas for the Auckland region.

### **3.3 Historic Heritage**

#### **3.3.1 What is historic heritage?**

Our historic heritage defines who we are, where we have been and informs where we are going. It informs our region's sense of place, now and into the future. A local sense of place is enhanced by retaining and enhancing our historic heritage places. It represents the stories of our people and reflects the values of communities through time. It contributes to our sense of belonging.

Our historic heritage is of fundamental importance to mana whenua. Maori have a special relationship with our historic heritage, established by whakapapa.

Historic heritage is defined within the RMA. For the purpose of the Unitary Plan, this definition is relied upon. Auckland's historic heritage is embodied in and defined by places such as the brick Victorian and Edwardian commercial buildings of the Queen Street Valley of our central city to the archaeological landscapes of Awhitu. We value these historic heritage places, as outstanding features in the Auckland landscape, often comprising of a combination of natural and man-made elements. We want these places, and their unfolding history, to be part of our future.

#### **3.3.2 Development of a Historic Heritage Plan:**

Officers are currently preparing an Auckland Council Historic Heritage Plan. This draft plan is about how to "get on the front foot" with historic heritage. The historic heritage plan will establish an agreed approach for historic heritage in the region that will be both inclusive and positive in its approach and integrated in its implementation. A discussion document has been prepared that states our proposed goals and the proposed actions required to improve historic heritage management within the region. One identified action in the draft plan is the development of a good practice regulatory approach. The plan has been endorsed by the Parks, Heritage & Recreation Forum for feedback from Local Boards and key stakeholders. This is currently being undertaken. The draft plan is scheduled for finalisation in early 2012.

#### **3.3.3 Relationship with the Auckland Plan:**

The Auckland Plan is currently being finalised, with historic heritage to be considered within the People & Place section. The Auckland Unleashed – the Auckland Plan Discussion Document recognised the importance of heritage "because it is an essential link to our past and is part of our

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identity” (Mayoral Foreword and Vision). The discussion document made the following statements to encourage community discussion (page 119):

- *We will take a broad view of heritage and recognise that it is more than lists of places and things, and that it can change over time and that it is an essential part of a growing vibrant city;*
- *We will have no further loss of heritage by knowing what it is, where it is and by having a range of tools and methods to protect it;*
- *We will recognise the importance of Maori heritage and cultural values in the Auckland landscape.*

Feedback on the discussion document supported the protection of historic heritage; no submission questioned the need for protection, in principle. The key issues raised in the feedback included the poor track record of effective protection of historic heritage in Auckland, the need for funding and incentives to assist private owners of heritage, and the need to provide for growth and intensification while also respecting historic heritage and historic character values.

### **3.3.4 Legacy planning approaches:**

All legacy planning documents sought the protection of significant historic heritage. The Auckland Regional Growth Strategy and the Auckland Regional Policy Statement identify the protection and enhancement of historic heritage as a desired regional outcome. Protection of some historic heritage is currently afforded by district and regional plans, predominantly through the use of historic heritage schedules. In some district plans, zoning was utilised.

The identification of historic heritage and areas of significant historic character is not comprehensive within the region, nor is the approach to management, protection and conservation of these items, places or areas consistent. All the legacy councils developed tools to incentivise and proactively encourage appropriate heritage management, to complement the regulatory regime. These tools are however not used comprehensively or consistently across the region.

### **3.3.5 Thematic approaches:**

Thematic studies of historic heritage had been undertaken by the previous North Shore City and Auckland City councils. The use of a thematic framework represents a shift, from viewing historic heritage in a discipline specific and itemised way, to viewing our historic heritage in an interdisciplinary and interrelated way.

Thematic studies involve the identification of the historic themes of an area over time, such as the theme of ‘defence’. Such a study assists in the understanding of how particular sites or areas represent a theme, such as the region’s WWII coastal fortifications, and fit into the context of broader stories of our local, regional or national history and development over time.

### **3.3.6 Unitary Plan approach:**

Ideally the Unitary Plan development would be based on complete information of the historic heritage values of the region. Given the resource and timeframe constraints, this will not occur. The proposed Unitary Plan approach will be required to rely predominantly on existing information, with limited new work undertaken. The focus of work will be to achieve a level of regional consistency.

Over time, further research will occur and the understanding of our historic heritage will continue to develop. The proposed approach will ensure the Unitary Plan has a framework that can respond to changes in our historic heritage information and understanding.

### **3.3.7 Relationship with other papers:**

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Our historic heritage has a strong relationship with our region's significant natural heritage features and natural landscapes. Our historic heritage also has a strong relationship with the built environment, communities and creative arts. Many of the issues identified and discussed in other resource issue papers, such as the central area, built, natural and rural environments, and Treaty of Waitangi and Maori, will also affect our historic heritage.

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## 4. Significant Issues – Natural Heritage

For the purposes of this paper, natural heritage includes landscapes, natural features and geological and geomorphological features of significance, and notable / heritage trees.

**“Outstanding”** refers to those natural landscapes and features that have been identified through Change 8 to the Auckland Regional Policy Statement.

**“Significant”** refers to those natural landscapes, features and trees that when assessed against an agreed set of significance criteria meet the threshold for being considered “significant”.



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## Issue 1 – Protecting Outstanding Natural Landscapes and Outstanding Natural Features from Inappropriate Subdivision, Use and Development



Figure 1 – Rangitoto Island an example of an outstanding natural feature.



Figure 2 – Pukaki lagoon (volcanic crater)

Auckland has a distinctive natural heritage which is integral to the region's identity.

This natural heritage is found on a rich and varied landscape and includes:-

- Visually dominant volcanic cones;
- Internationally unique volcanic field, on which a number of features of national and/or regional geological significance and locally important landscape value (Tank Farm tuff crater), Lake Pupuke, Orakei basin and Pukaki lagoon;
- Rainforests and landforms of the Waitakere Ranges and foothills;
- Water catchment lakes, dams and water supply infrastructure;
- West Coast margins, black sand and surf beaches of Piha and Karekare;
- Hauraki Gulf Islands

In order to preserve Auckland's distinctive natural heritage and the sense of place that Auckland's diverse landscapes create it is important that both are identified, valued and managed in order to preserve them for future generations.

Many of the region's larger scale natural features have been modified by urban development (Orakei Basin, Tank Farm Lagoon) or farming activities (Pukaki Lagoon) and in some instances Only remnants of the original feature remain (seaward portion of Meola reef). Other natural features may be of local, regional, national or international geological significance, but are smaller in scale and are subject to more localised development pressures, or may only be discovered during the development process.

### Explanation

The Unitary Plan needs to identify and protect areas of Outstanding Natural Landscape and Outstanding Natural Features. This has been addressed through Change 8 to the Auckland Regional Policy Statement (ARPS) and has been subject to over 10 years work by the previous regional and district councils.

The main source of protection for Significant Geological Features is through Regional and District Plans. Most assessments of geological significance in statutory plans appear to have originated from the NZ Geopreservation Inventory, which currently recognises three levels of significance: regional, national and international. The Geopreservation inventory does not protect sites of geological significance therefore it is important that the Plan addresses this, given the unique volcanic landscape of Auckland and the importance of other geological / geomorphological sites to Auckland, such as Tahuna Torea shell and sandspits.

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Appendix B of the operative ARPS distinguishes sites of national and international geological significance from the remainder, which are considered to be of regional significance. A level of 'national' significance is often the trigger for inclusion in plans in many New Zealand districts.

There are some sites identified of local significance where features are damaged or in a poor state of preservation, such as Ash Hill, Mt Cambria or Little Rangitoto in Remuera. At a local level some sites which may not represent the best example of their type or are not significant at a regional or national level, may well have value to a local community. Similarly features that have suffered some damage (e.g. Little Rangitoto) may still provide valuable and readily accessible outcrops for educational purposes.

Expert advice is required to confirm how section 6b of the RMA applies to sites of geological significance and what criteria should be used to determine an outstanding natural feature. For example, how do we address those features, which do not have visual significance eg. Wiri lava cave (international significance, but it is underground).

There are a number of properties within Auckland that have entrances to lava caves on their properties. Incentives will need to be developed to encourage land owners to protect these features.

The qualities associated with each feature may vary and require a more tailored approach to ensure the effective management of features.

## **Broad approach**

### *Regulatory*

- Undertake further work to develop significance criteria for the assessment of outstanding natural landscapes, Outstanding Natural Features, Significant Volcanic Features and Significant Geological Features, in line with recent changes to the statutory framework (*New Zealand Coastal Policy Statement 2010, Waitakere Ranges Heritage Area Act 2008*),.
- Roll over any Outstanding Natural Landscapes, Outstanding Natural Features, Significant Volcanic Features and Significant Geological Features already identified within regional and district plans.
- Explore the use of an Overlay approach to map and identify Outstanding Natural Landscapes, Outstanding Natural Features, Significant Volcanic Features and Significant Geological Features, with schedules that provide more detail on values of each features and their level of significance.
- Explore the use of controls on establishment of new buildings, vegetation clearance, subdivision, earthworks, riparian planting in line with the direction set by Change 8, recent legislation and relevant case law. Update the existing policies where necessary and/or provide more detail within schedules so that they can provide clear guidance at a district level on the management and protection of these features.

### *Non regulatory*

- Explore opportunities for the use of covenants, incentives, rates relief, funding to encourage landowners to support landscape protection, management restoration and enhancement in line with the direction set by Change 8 to the ARPS.
- Develop tool kits / design guidelines that outline key things to consider when undertaking a development that will be in the vicinity of the range of landscapes and features at a site and immediate surrounding environment.

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- Provide education on values of Natural Landscapes and Features.

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## Issue 2 – Protecting the visual integrity of the Volcanic Cones

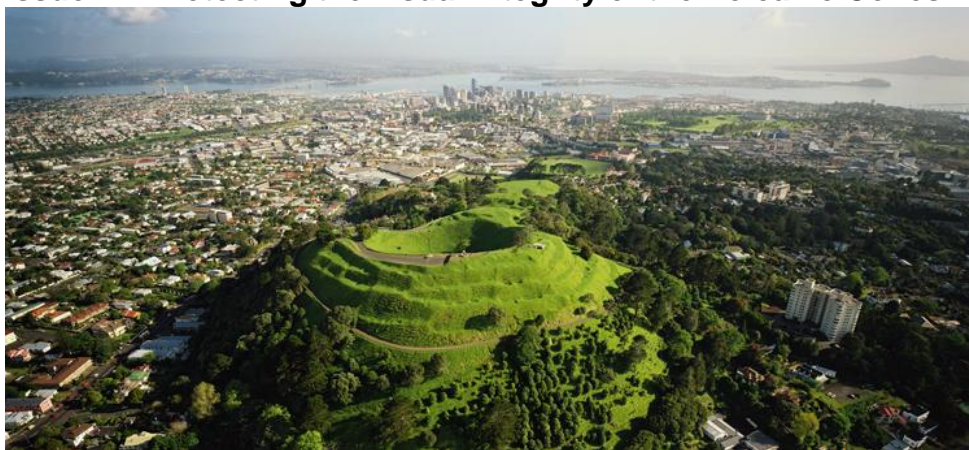


Figure 3. Protection of views to features such as Mt Eden

Activities on land surrounding or adjacent to the volcanic cones on the isthmus and north shore, which are identified as Outstanding Natural Features, have the potential to individually or cumulatively detract from the physical and visual integrity of the feature.

### Explanation

Change 8 to the ARPS identifies view shafts and height sensitive areas that protect views to and between the volcanic cones. The identification of view shafts provide for the protection of cones by directing how adverse effects are to be avoided, recognising that activities on land surrounding or connected to the feature can impact adversely on the values of the feature just as much as activities that directly affect it.

These view shafts have been identified in the affected district plans in a consistent manner.

### Broad approach

#### *Regulatory*

- Develop a policy framework that integrates and rolls over the work already completed through Change 8 to the ARPS and that harmonises the provisions that are already in place within the Auckland, North Shore and Manukau District Plans.
- Identify view shafts within the Plan as an overlay.

#### *Non regulatory*

- Monitoring of the integrity of existing view shafts.
- Education / information on interpretation of natural heritage values at key viewing locations

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### Issue 3 – Managing the effects of change on the landscape and amenity values of Auckland



Figure 4 - Anawhata Farm, Waitakere Ranges Regional Park



Figure 5 – Riparian planting at Waitekewai Stream (Landcare)

Most of the region's landscapes are experiencing ongoing physical and visual change through: changes in primary production (pastoral farming to horticulture or viticulture); more intensive use of rural areas for a range of non-production activities, particularly countryside living; transformation from rural to urban uses at the urban edge and redevelopment and intensification within urban areas.

Many Outstanding Natural Landscapes are working rural landscapes and are used for private residential, commercial, and industrial purposes – landowners want to be able to continue to use their land for productive or residential purposes. While some ONLs are highly sensitive to degradation from changes in land use and new development, for example the forested Waitakere Ranges, others may be able to accommodate change without loss of character or quality, provided care is taken in the design and location of new development, In particular, that the subservience of built form to natural values is maintained or enhanced.

There are other rural, coastal, island and urban areas of the region (that are not Outstanding Natural Landscapes) but which contribute to the region's landscape and amenity values. Subdivision, use and development has the potential both to enhance and degrade these amenity values, depending on how it is undertaken.

The identification of Outstanding Natural Landscapes in the Unitary Plan and restrictions on the subdivision, use and development of these areas, impacts on private property rights and have the potential to affect the use of the land for farming and traditional land uses if provisions do not appropriately recognize the potential for change without loss of value.

A diversity of good quality landscapes both natural and modified provide places for people to undertake economic, social and recreational activities, as well as being important for regional and national tourism.

#### Explanation

The Change 8 to the operative ARPS and the draft ARPS identify the Outstanding Natural Landscapes and provide direction on how these are to be protected to maintain their values.

Amenity and landscape values are left to be addressed at a district level. District plans have responded in a number of ways. Generally a more detailed landscape assessment is used to identify constraints and opportunities for future growth and inform structure plans and area plans.

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In general landscape values have been integrated with a number of other values and addressed within the zone, rather than having a separate map layer depicting amenity landscapes.

The Hauraki Gulf Islands Plan is a good example of where amenity and landscape values have been integrated into management units and addressed through zoning.

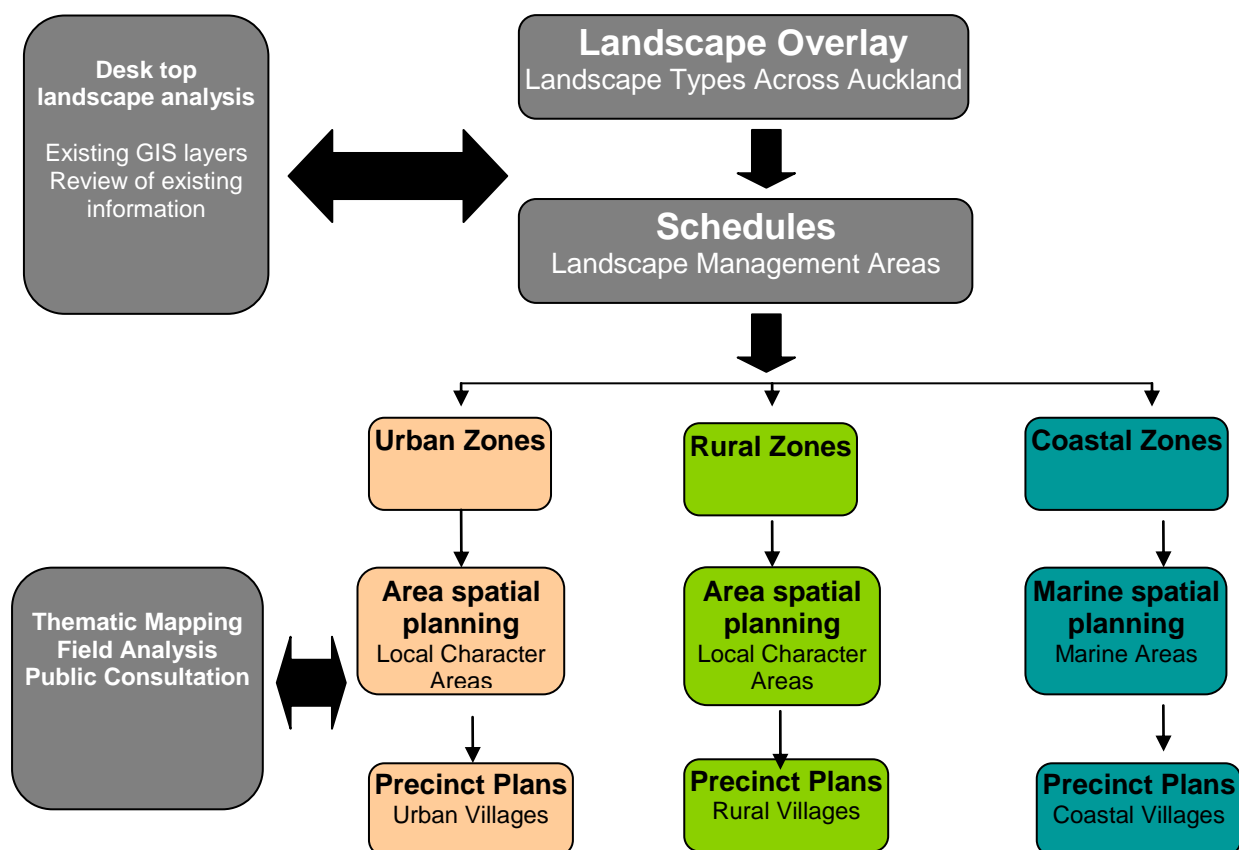
Landscapes may continually change as rural economies evolve and land uses and settlement patterns modify over time. Change is to be carefully managed, however to ensure that the overall amenity and environmental quality of the area is maintained or enhanced. This may include ensuring that areas of special natural, landscape or cultural value and sensitive visual areas, such as ridgelines, headlands and routes, are protected and that ecological 'patches' and connective corridors such as those along waterways are enhanced.

Effective landscape planning needs to incorporate community values and engagement leading to community vision as to what landscapes could look like in the future and focuses on developing and implementing an effective strategy to achieve that vision. It is important to recognize the wider benefit that these areas have to the community whilst supporting land owners to continue the economic use of their land.

Further work is required to determine how landscapes should be depicted within the Unitary Plan with regard to their landscape and amenity value. The options being considered are as follows:-



**Option A Landscape Overlay**

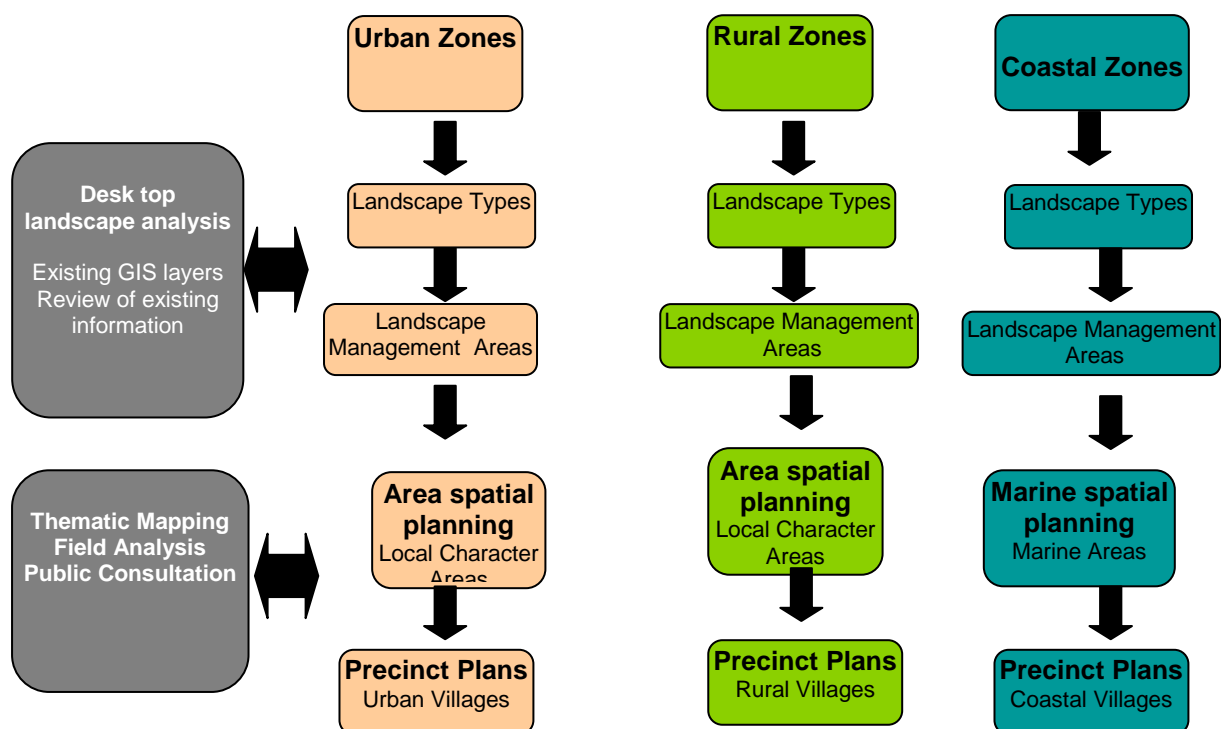


Landscapes for the entire region would be categorised into key landscape types, using a desk top review of relevant GIS map layers, recent landscape assessments, existing information within zones / overlays in Plans on landscape amenity would be moved to the landscape overlay.

The key issues for management of landscape types would be identified and a policy response developed into a Landscape Overlay.

More detailed development guidelines, ground truthing and community engagement to identify community values would be undertaken at the time Area Spatial Plans are prepared.

## Option B Integrate landscape values into zones



Landscapes for the entire region would be categorized into key landscape types, using a desk top review of relevant GIS map layers, recent landscape assessments, existing information within zones / overlays in Plans.

The key issues for management of landscape types would be identified and a policy response developed and integrated within the range of zones that are developed.

More detailed development guidelines, ground truthing and community engagement to identify community values would be undertaken at the time Area Spatial Plans are prepared.

In order to develop an appropriate response amenity landscapes need to be mapped, in line with current Environment Court case law and the New Zealand Coastal Policy Statement (Policy 15). Public consultation on the values of these areas needs to be undertaken however may not be possible given the timeframes of the Unitary Plan.

### Broad approach

#### *Regulatory*

- Explore timeframes to undertake a region-wide landscape assessment to assess landscape types and identify management areas at a District (local) scale for Auckland.
- Develop a policy response to provide clarity on what type of development is and is not acceptable within the different landscape types and address by way of zone or overlay.
- Develop design guidelines that would be linked to policies to provide guidance on acceptable development approaches within different landscapes.
- In areas under pressure from growth undertake more detailed spatial planning to respond to Landscape issues.
- Consider the use of the thematic layering approach to identify the range of values (heritage, landscape, cultural) associated with a particular area.



- 
- Develop a policy framework that provides a clear direction on how landscape values can be managed.
  - Identify Outstanding Natural Landscapes and the values associated with them through Overlay maps and schedules.
  - Provide guidance within the Activity tables as to the range of uses that should be encouraged in these areas, and clear guidance as to how they should be managed through the policy framework and guidelines.
  - Explore the use of transferrable development rights.

*Non Regulatory*

- Tool kits for development in areas within and adjoining Outstanding Natural Landscapes;
- Explore the use of incentives to encourage riparian planting, stock proof fencing of bush and waterways, planting schemes for the enhancement or remediation of degraded landscapes;
- Work with community groups to undertake environmental initiatives to enhance or remediate degraded landscapes.
- Landscape led development concepts
- Landscape Architects to sit on Council's Urban Design Panel to assess development proposals.

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**Issue 4 – The need to maintain or upgrade regionally significant infrastructure can result in significant adverse visual effects on the landscape.**



Figure 6 – Te Apanui Wind Farm (an example of one type of renewable energy infrastructure that needs to be provided for within the Region).

Regional infrastructure provides national and regional public benefits that need to be balanced against the national importance of outstanding natural features and landscapes.

The need to maintain or upgrade existing regionally significant infrastructure, or to develop new infrastructure to support the Auckland economy or improve national services, means both the urban, rural, and coastal landscapes are being required to accommodate infrastructure that may have significant visual effects on the landscape.

### **Explanation**

This topic overlaps with the infrastructure work stream.

The New Zealand Government has set a national target of 90 per cent of electricity generated in New Zealand should be derived from renewable energy sources by 2025 (based on delivered electricity in an average hydrological year) providing this does not affect security of supply. The Regional Policy Statement on Renewable Electricity Generation was issued by notice in the Gazette on 14 April 2011.

The Auckland Plan and the Regional Energy Strategy will provide direction on how Council will respond to this issue. The Unitary Plan will also need to respond through the acknowledgement of this issue through its policy response in the Plan.

The preamble of the NPS recognizes that the benefits of renewable electricity generation can compete with matters of national importance under section 6 RMA and matters to which decision makers are required to have particular regard under section 7 RMA.

Section 7 of the RMA identifies other matters that in managing the use, development and protection of natural and physical resources, must have particular regard to:-

- (ba) the efficiency of the end use of energy
- (i) the effects of climate change;
- (j) the benefits to be derived from the use and development of renewable energy.

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These must be balanced against section 6 matters as the natural resources from which electricity is generated can coincide with areas of significant natural character, significant amenity values, historic heritage, outstanding natural features and landscapes, significant indigenous vegetation and significant habitats of indigenous fauna.

Often the positive benefits of renewable electricity generation are recognized at a national level, but result in adverse effects at a local scale.

There are a number of outstanding appeals to Change 8 to the ARPS relating to regionally significant infrastructure. These will hopefully be resolved prior to the notification of the Unitary Plan. Key issues outstanding are:-

- Location of sites for wind energy adjacent to Outstanding Natural Landscapes
- Provision of underground infrastructure within Outstanding Natural Landscapes
- Definition of regionally significant infrastructure

## **Broad approach**

### *Regulatory*

- Develop a policy framework that provides clarity as to areas that are not acceptable for Renewable Electricity Generation and the types of activities that are acceptable within Outstanding Natural Landscapes;
- Develop a policy framework that provides clarity to Renewable Electricity Providers that requires the consideration of landscape values to be a consideration in the design and location of regionally significant infrastructure;

### *Non regulatory*

- Engage with key stakeholders such as Department of Conservation, Environmental Groups, Renewable Electricity Generators, Ministry for the Environment and Energy Efficiency Conservation Authority to develop a policy framework that provides a balanced approach to the management of Outstanding Natural Landscapes whilst enabling Renewable Electricity Generation where practicable.
- Explore the use of an alert layer within GIS to map areas that are unsuitable for Renewable Electricity Generation to go.
- Identify opportunities for public / private partnerships to work with Renewable Electricity Generators to identify suitable sites, early in the planning stage.

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## Issue 5 – Trees that are identified as significant or notable should be afforded an appropriate level of protection

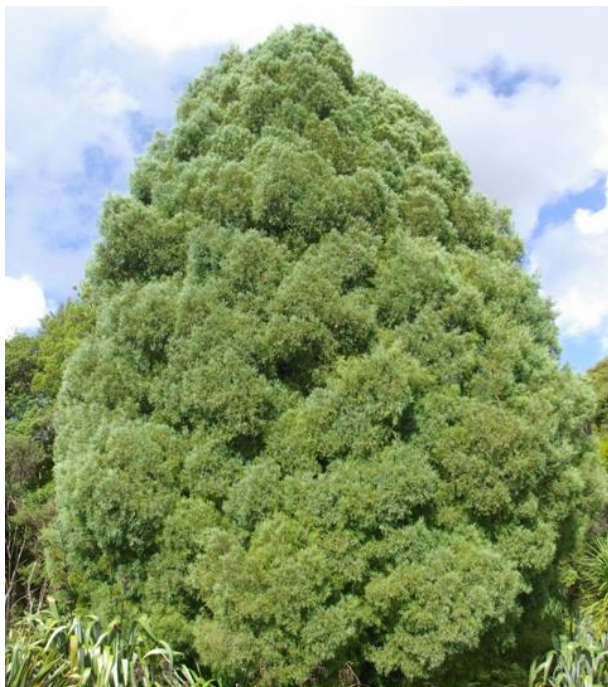


Figure 7. An example of a scheduled tree from the Waitakere Plan.

The heritage or landscape values that notable or scheduled trees are identified to protect can be lost if these trees are altered, damaged or removed.

### Explanation

There are a number of trees that are of such aesthetic, scientific, ecological or historic significance that their continued good health and survival are in the interests of the community at large.

There are currently a total of around 3690 trees specifically listed in the existing Auckland District Plans as being notable for some reason. In addition to this through the recent plan change nomination process a further 4300 trees have been identified as being potentially worthy of inclusion. See **Appendix B** for details.

It is considered that the number of notable trees in the various Auckland District Plans and the number nominated through this recent process shows how many valuable trees there are within the Region and the desire of the community to have such trees protected.

A number of potential deficiencies with the current range of STEM criteria have been identified by Council officers, for example, in relation to the scheduling of 'pest' species, and the protection of individual trees with specific ecological value (eg as bat roosts). These should be further investigated.

In carrying out the review of the Unitary Plan the existing schedules of notable trees will need to be reviewed. As with any schedule changes can occur over time and it will be important that the schedule notified as part of the Unitary Plan is as accurate and as internally consistent as possible.

This will also mean having a consistent technique to assess whether a tree is considered to be notable or not. In the current Auckland District Plans these criteria are different and going forward in the Unitary Plan one set of criteria for identifying notable trees will need to be decided upon.

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## **Broad Approach**

### *Regulatory*

- Carry out work to decide on a single region wide methodology to assess and identify notable trees in the Unitary Plan
- Carry out a review of the existing scheduled based on this methodology
- Develop appropriate issues, objectives and policies for notable trees
- Develop a set of consistent permitted region wide exceptions for all notable trees

### *Non regulatory*

- Develop associated non-regulatory provisions which will support rules notable trees. For example incentives, waived consent fees etc...

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## **Issue 6 – Trees that are not notable or significant ecological features may need some level of protection**

Removal of trees can result in a loss of the multiple benefits that trees provide. These include the provision of and support for significant individual trees and groups of trees through the provision of life supporting services. This can include loss of amenity, shading and habitat values.

### **Explanation**

Notable trees only apply to the best example of an individual tree or small grouping, and are usually assessed in relative isolation from the surrounding environment. For notable trees to contribute to the overall amenity values of an area they need to be supported by other trees and areas of vegetation in the surrounding environment.

For example in neighbourhoods characterised by urban trees a large number of trees are needed to contribute to the neighbourhoods overall amenity. In this instance notable trees would only contribute to a small portion of this overall amenity.

In the same way as above the protection of significant ecological areas in isolation will not be enough for Auckland to maintain its current level of indigenous biodiversity and its responsibilities under Section 6(c) of the RMA. Significant ecological areas also require support from surrounding stands of vegetation and trees or groups of trees that are not likely to be listed in the plan as significant in their own right.

This highlights the nature of the natural environment and ecosystems. It is impossible to maintain the integrity of an ecosystem without acknowledging its interconnections and linkages with other areas. A good example of this is the connections between individual stands of trees.

### **Broad approach**

#### *Use of general tree protection rules in appropriate areas*

The current approach to managing other trees of value by some of the existing Auckland District Plans is to include general tree protection and vegetation clearance rules. These rules act as a trigger for resource consent so an assessment of the tree or vegetations values can be undertaken.

While there has been some criticism to the general nature of these rules there may be areas where their use is still considered appropriate. For example a general set of tree protection rules may be reasonable in areas valued for their natural character; areas that have functional roles (i.e. the coast or riparian areas) and areas that act as connections or linkages between habitats. There may also be specific neighbourhoods in the urban environment which have amenity values dependent on trees or urban development that is located in environmentally sensitive locations.

When developing the Unitary Plan areas where general tree protection rules could be applied will require careful consideration and any general tree protection rules will need to be reasonable, necessary, and linked specifically to the values they are being used to protect, as per the direction set out in the Environment Court Declaration and subsequent legal advice received.

#### *Simplify the general tree protection provisions*

There are pages and pages of general tree protection rules in the existing Auckland District Plans. These rules often have different sets of exceptions and apply to different areas in different circumstances. This adds to the overall confusion and reduces the usability and effectiveness of these rules. It is important for a land owner to be able to easily find the tree protection provisions that apply to their land and find the appropriate action to take if they want to remove or alter one of these trees.

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The Unitary Plan provides an invaluable opportunity to develop a comprehensive set of rules that apply across the region, as appropriate, for tree protection, in line with the amendments to the RMA. It also provides an ability to review the permitted exceptions and assessment criteria to support any general tree protection rules used.

*There will still be trees and vegetation the Auckland Region that is not protected in anyway*

While general tree protection rules may be appropriate in some areas it is likely that the Unitary Plan will not be able to provide protection for all trees and vegetation. Support is therefore needed to help maintain these areas in suitable circumstances. This is best supported through the use of non-regulatory provisions and possibly conditions of consent when assessing applications for resource consent.

#### *Summary of Recommended Approach*

- Consideration of appropriate areas where general tree protection rules could be used in the Unitary Plan for example:
  - o Urban areas with amenity values attributable to trees and vegetation
  - o Coastal Protection Areas
  - o Networks and Corridors where tree protection supports overall environmental functions
  - o Riparian margins/coastal edges
  - o Buffers to Significant Natural Areas or Significant Ecological Areas
- Explore the use of an overlay technique in the Unitary Plan to identify these areas
- Ensure any rules are based on protecting the specific values of these areas and that this is represented in the corresponding objectives and policies
- Look at ways the provisions can be simplified and easier to manage for landowners
- Look at ways the implementation of general tree protection rules can be improved
- Identify the degree to which any such rules need to be supported and augmented by other methods
- Investigate non-regulatory options including education and incentives to support overall tree protection in the Auckland Region

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## **Issue 7 – Restrictions on the removal or trimming/pruning of trees on private land is contentious and high profile**

A large percentage of trees in the Auckland Region are located on private land. Having a requirement to obtain resource consent to alter or remove these trees can be perceived as onerous, expensive and an infringement on the property rights of an individual. Other people are equally convinced that such restrictions are necessary and justified.

Any Unitary Plan provisions which place restrictions on the removal or trimming/pruning of trees will be high profile, and will likely generate a high degree of public interest and response. It is important that any regulatory provisions are justified, appropriate, and supported by non-regulatory provisions to incentivize and reward appropriate tree management on private land.

### **Explanation**

There are varying opinions and views on the protection of trees on private land. While many are in support of such provisions there is a feeling from many property owners that this infringes on their property rights and therefore their ability to manage their own land. In many cases people in the community like the natural environment and the services it provides but it is preferable that this is controlled on other peoples land and not in their own backyards.

Some of the inconveniences and costs that private landowners come across when dealing with protected trees on private land include:

- Uncertainty about costs and whether an application will be approved by Council
- Consent processing fees
- Restrictions on the development of a site
- The requirement to protect something on their land for a public good
- Receiving no compensation for this public good
- Having to commission an expert (arborist or landscape architect) to prove any activity carried out on a protected tree will have no adverse effects
- The cost of mitigation planting
- The cost of any works on the tree in accordance with good arbocultural practices in addition to any consent costs

In support of these concerns from private landowners direction has been provided by central government in the changes to the RMA.

Here it has been signalled that having crude tree protection rules which cover large unspecified areas and not adequately justified in the District Plan is not acceptable. These rules are required to be revoked as of 1 January 2012.

### **Broad Approach**

To achieve the sustainable management of natural resources a collaborative approach must be taken. Natural resources are contained across parcels of public and private land and trees are a good example of this. For the environment to continue to function now and in the future then individual properties all have a part in contributing to the protection of the remaining resources which they contain.

In supporting this Council needs to be aware and provide flexibility for landowners who are contributing toward this public good. Where regulatory provisions are to be imposed then adequate consideration of the costs and benefits to landowners need to be assessed.

*Things to consider when developing provisions for the Unitary Plan:*

- The use of non-regulatory provisions to accompany any regulatory provisions used for notable trees or general tree protection. These may include:
  - Options for free arborist advice



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- Waiving of consent fees when processing applications for general tree protection
  - Education and incentives around retaining trees on private
  - Options for onsite decision making or quick consents by Council tree officers
  - Simplification of tree protection rules so they are easier to understand for landowners
  - Ensuring assessment criteria acknowledge the full range of effects including any benefits that may arise from removal of a tree

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**Issue 8 – There is a lack of understanding about the relationship between plan provisions relating to trees, and the state of the resource, particularly in urban areas.**

Given the high degree of public interest in urban tree protection, it is particularly important that there is a clear understanding of the state of the urban forest, and the effect of implementation of plan provisions on that resource.

**Explanation**

In order to assess how these identified issues influence tree protection over time effective monitoring is needed. Monitoring data needs to be the basis for any provisions developed in the Unitary Plan. In addition to this provisions developed for the Unitary Plan need to be measurable so their effectiveness going forward is able to be assessed.

While plan effectiveness and state of the environment monitoring is a general requirement that affects all of the Unitary Plan it is considered to be of particular importance to provisions for the protection of urban trees. Basing provisions on good monitoring and continuing this monitoring in future means the provisions are more likely to be understood, and easier to respond to, along with maintaining public confidence in the Unitary Plan.

**Broad approach**

- Base Unitary Plan provisions on available monitoring information and best practice examples
- Ensure that when drafting any provisions for the Unitary Plan that that are written in a way that they are measurable over time to ensure the effectiveness of any methods used
- Develop monitoring provisions that provide information on the state of urban trees

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## 5. Significant Issues – Sites and Areas of Significance to Maori

For the purpose of this report the following definitions apply and are based on the ICOMOS NZ charter which refers to cultural heritage value and cultural landscapes:-

**“Cultural heritage value/s”** means possessing aesthetic, archaeological, architectural, commemorative, functional, historical, landscape, monumental, scientific, social, spiritual, symbolic, technological, traditional, or other tangible or intangible values, associated with human activity.

**“Cultural landscapes”** means an area possessing **cultural heritage value** arising from the relationships between people and the environment. Cultural landscapes may have been designed, such as gardens, or may have evolved from human settlement and land use over time, resulting in a diversity of distinctive landscapes in different areas. Associative cultural landscapes, such as sacred mountains, may lack tangible cultural elements but may have strong intangible cultural or spiritual associations.

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## Issue 1 – Identification and management of sites of significance to Maori

The level and demand for growth within Auckland has negatively impacted upon Māori's natural and cultural heritage values. This is reflected in numerous documentation and verbal communication produced by tribal groups.

There is a common misconception that Waahi tapu sites must contain archaeological evidence in order to be considered for protection in a planning context. There is often confusion as to which legislation, or organisations afford protection to Waahi tapu sites.

What is clear is that Waahi tapu sites are not necessarily strictly linked to historic places where archaeological evidence of past human (Maori) activity may be present; Waahi Tapu has a far wider reaching interpretation by Maori.

Local government needs to ensure that Maori have the opportunity to identify sites of significance and participate fully in the planning process. Some Maori hesitate to share information relating to their sites of significance with Council. However, other Maori have realised in the last 20 years of working with a District Plan that identification is a necessary mechanism for formally recording and subsequently protection.

### Explanation

#### *Identifying sites of significance*

To date sites of significance to Maori have not been recorded in a consistent manner. Some Auckland Plans do not have any sites of significance identified. This information can be held in other sources, such as Iwi Management Plans, Treaty Settlements, New Zealand Historic Places Trust Register waahi tapu and, or through tribal knowledge handed down through generations. Sites of significance to Maori may include physical features such as pa sites, urupa and midden. They can also be areas of intangible value for example the location of a historic battle, or cultural significance such as traditional areas for food gathering.

To identify these sites a desk top study of a range of information sources including historical records, Waitangi Tribunal reports, Treaty Settlements, Iwi Management Plans and archaeological records will help to record and map where these sites are.

Iwi consultation will be essential to confirm what should be included within the Plan, and what and how it should be displayed and accessed, information should be held in a more secure form i.e areas not suitable for human food consumption. The storage of this information and levels of access will need to be agreed with iwi.

There may not be sufficient time available to undertake the required research and consultation required to accurately record sites of significance for the entire Auckland Region. This may result in information gaps within certain parts of the region.

#### *Management of sites of significance*

Maori have their own special interests in significant sites. These interests should direct identification and management. Council has a role and obligation to develop relationships with Maori to enable and enhance opportunities of leadership in the form of vision and goals. Understanding the values associated with a particular site or feature, can help to inform policy development and appropriate methods for ongoing management. In addition, the establishment of a co-management entity to manage sites of significance can assist Council through building governance structures, relationships and social capital.

### Broad approach

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### *Regulatory*

- Use historical records, Iwi Management Plans, Treaty Settlement legislation, Statutory Acknowledgements and iwi consultation as a basis for identifying sites of significance to Maori in the Unitary Plan.
- Explore the use of a Cultural Heritage overlay to identify sites of significance to Maori and Maori values;
- Planning maps and schedules to identify within the Plan sites of significance to Maori;
- Develop policies and methods for sites of significance to Maori that provide clarity about consultation / input from Maori into the decision making and management process;
- Integrate through policies / schedules / rules within the Plan guidance on appropriate techniques to manage activities in the vicinity of these features.
- Work with Maori to develop protocols for management of sites of significance that can be incorporated into policy guidance;
- Include provisions that avoid adverse effects on Maori heritage sites and values and that ensure that Maori have the opportunity to identify significant sites and to participate fully in the planning process
- Include rules that enable the council to assess, and where appropriate decline, activities that diminish, remove or demolish heritage places, trees, features, sites of significance to Maori, or archaeological sites;
- Specify relevant iwi as affected parties, and require consultation and an assessment of effects that includes heritage values of significance to Maori
- Explore options for section 33 – transfer of powers where appropriate;
- Explore options for section 36B-E - joint-management where appropriate

### *Non Regulatory*

- Complete surveys of the region both Maori Sites and Archaeology surveys
- Develop tool kits to help planners understand a knowledge management protocol and associated Māori interests when processing applications;
- Utilise commissioners in resource consent hearings with expert Maori knowledge
- Keep a register of new sites that are identified and incorporate them into the Plan through regular reviews / Plan changes as required.

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## **Issue 2 – Management of sites of significance to Maori that are not protected through the Unitary Plan**

There may be areas where information on cultural values has not been able to be recorded or consulted on within the timeframes of the Unitary Plan. Alternatively there may be information that is sensitive and considered by Iwi as not appropriate to be included in the plan. A lot of this information is handed down through generations in oral history.

The purpose of keeping this information out of the public realm is to protect their most valued features over time. Unless this information is physically recorded in some form, it can often be difficult for Iwi to provide a robust evidence base when these areas or features are at threat from land use, subdivision or development.

### **Explanation**

Because Maori knowledge is a taonga (treasure) in its own right it is important to consider protocols and intellectual property rights carefully when managing this information. Historically some Iwi have not been comfortable with including information on their sites of significance within Plans. With recent Treaty Settlements, pressure on land from development and loss of knowledge as kuia and kaumatua pass on, the ability to record and manage this information is increasingly becoming important in order to save these features from being lost.

The information gained through the Plan development process can help to inform our understanding of the traditional values and concepts of Iwi groups within Tamaki Makaurau. Council can help to build the capacity of Iwi to be involved in resource management processes, by looking at options to develop an information management system that can be a central and secure location for this information to be stored.

Further work is required to engage with Iwi on this issue to look at options for how more sensitive sites and areas of significance to Maori can be managed and protected.

Consideration of the development of an Overlay that alerts the Planner to the need to request a cultural heritage assessment (if a site is known to exist and is recorded on a secure database) or an alert for the need to consult Iwi where it is in an area of high likelihood of having significance to Iwi could be a tool that could be considered.

Each Iwi may have different approaches to how they want their information managed, so it is important that the Plan provide a flexible range of tools to ensure that cultural values are considered in resource management processes.

### **Broad approach**

#### *Regulatory*

- Develop cross region policies / methods to identify situations where the use of discovery protocols and the requirements for cultural impact assessments should apply e.g. sites of significance to Maori, areas close to the coast or where historic occupation has occurred, earthworks etc.
- Develop policies and methods for sites of significance that are not identified in schedules to the Plan to provide clarity about consultation / input from Maori into the decision making and management process;
- Integrate through policies / schedules / rules within the Plan guidance on appropriate techniques to manage activities in the vicinity of these features.
- Explore the development of a protocol for Knowledge Management for information that may not be contained in the Plan (included as a policy in the District Plan or alongside)

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- Work with Maori to develop protocols for management of sites of significance that can be incorporated into policy guidance.
  - Explore options for section 33 – transfer of powers where appropriate;
  - Explore options for joint-management where appropriate
  - Utilise commissioners in resource consent hearings with expert Maori knowledge / or utilize in house Maori Strategy and Relations / Cultural Heritage staff to provide advice where specialized expertise is required.

#### *Non Regulatory*

- Use GIS layers to specify relevant iwi to consult as affected parties if sites of significance are identified;
- Work with Maori to establish and maintain records of sites of significance that are not included within the Plan
- Complete surveys of the region both Maori Sites and Archaeology surveys. Enabling iwi interpretation through resourcing to allow the interpretation of the site in particular contexts, i.e education of staff members privy to their information
- Develop tool kits to help planners understand a knowledge management protocol and associated Maori interests when processing applications;
- Cultural sites of significance identified (but not formally protected). E.g. a database of information that is held by Iwi.
- Protocol development for knowledge management, aims should be to prepare a protocol for managing knowledge relating to iwi intellectual property and information pertaining to iwi sites of significance
- Access is not only access to written information provided by iwi but includes constant communication and discussion between iwi and Council staff;
- A log is could be kept by Council to record and document the use and access by staff of iwi information and is reviewed annually with iwi;
- Council should contribute to resourcing and enabling this relationship as opposed to an enabling protection solely through the District Plan, as is consistent with the principles of the Treaty of Waitangi; and
- Build the capacity of Iwi to undertake their own cultural heritage mapping, by providing resources to support further research, GIS mapping, archaeological surveys and the development of Iwi Management Plans.
- Council leading by example, on council owned/managed land
- Working with private land owners, incentives and education, to facilitate traditional use/customs and practice.

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### **Issue 3 – Development of criteria for identifying Maori Sites of Significance**

The RMA states in principle that protection of Maori sites of significance is desirable, the assessment of sites according to pre-determined criteria often pitch sometimes intangible Maori values unequally against more tangible heritage values.

#### **Explanation**

The approach to interpreting Maori values and concepts is vital to the effective integration of these matters into the RMA framework. The traditional method of assessing heritage sites or features against a set of criteria, then ranking them according to their significance does not fit well with cultural heritage.

Consultation with Mana Whenua groups will be essential to the development of criteria for identification, and each group may have a different preference for what they would like identified and how they wish for a feature to be managed and protected.

Maori have their own special interests in significant sites. These interests should direct identification and management. Waahi tapu need careful management and it will be a matter for Maori and the local authority to decide on a protocol for dealing with these in terms of resource management planning.

#### **Broad approach**

##### *Regulatory*

- Work with Mana Whenua groups individually or collectively to develop a set of criteria that they endorse;
- Develop a policy framework that provides clear guidance on the process to follow and criteria to use for the identification, management and protection of new sites of significance as they become known;
- Exploring the opportunities for Iwi organisations or entities to become Heritage Protection Authorities;

##### *Non regulatory*

- Build the capacity of iwi to develop an agreed set of criteria and to further develop mapping and research that cannot be achieved within the timeframes of the Unitary Plan by providing research funding for this work to be completed;



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## **Issue 4 – Recognising that cultural values and landscapes are important in their own right and understanding the relationship with other scheduled features**

Maori values associated with the landscape represent an unbroken genealogical connection and strong spiritual components. It all develops from whakapapa, oneness between people and the land. Landscape is intergenerational and sites are related to each other.

Cultural values and landscapes have been under represented in Regional and District Plans to date. As part of the development of the Unitary Plan significant work is required to start to document and record cultural values associated with scheduled items. This includes outstanding natural features and landscapes, significant ecological areas and more. In addition to scheduled sites there are also areas of high cultural value to Maori that may not be significant for any other reason, such as historic food gathering areas, sites of historic battles and burial grounds. It is important that cultural landscapes are recognised and understood in their own right, as well as understanding how they connect and relate to other scheduled features. The cultural landscape can include various cultural heritage values which contribute to a unique historic environment requiring holistic and sensitive management. This concept requires the need for an agreed upon approach, terminology and commonly-understood definitions.

### **Explanation**

Cultural landscape is now a separate listing for World Heritage sites and includes associative and designed landscape as well as those that have evolved organically. These usages have rarely been scrutinised with care. We must analyse how sites can be best thematically interpreted and understood for their heritage, indeed World Heritage, significance and, where appropriate, developed for their sustainable heritage tourism potential.

In order to map cultural landscapes, the multiple and diverse links between Mana Whenua and their land, waterways and seas needs to be understood. None have links that are longer or deeper than those of Maori.

The 23 Iwi of Tamaki Makaurau celebrate the richness of their environment and their living relationship with it, through art, story, dance and song, tikanga, customs, whaikorero, whakapapa and as kaitiaki. The methods in which Maori values and concepts are addressed in the Unitary Plan will impact on the appreciation of their scale and degree of protection afforded to them. The amount of information that is available to support the existence of these identified values can have a direct impact on the weight assigned to these matters in the decision making process.

Research that includes Maori as equal parties has the potential to build social capital and enhance local capacity for heritage problem solving. It is crucial that goals, aspirations and issues from a Maori perspective are provided for in the Unitary Plan and that consultation with Iwi commence as soon as possible.

To date a region-wide assessment of cultural heritage values is yet to be undertaken. Some of the work for the Auckland Plan is likely to provide a starting point, as well as cultural heritage mapping that has been undertaken through Auckland City Council's, Future Planning Framework and Manukau City Council's, waahi tapu research project. A lot of information will also come through previous consultation by Council on other Plans, iwi management plans, research, and treaty settlement legislation.

### **Broad approach**

#### *Regulatory*

- Explore the inclusion of a Cultural Heritage Overlay within the Plan, to record cultural landscapes, sites of significance to Maori for the region where they have previously been recorded in historical records, research projects, treaty settlement legislation and through Iwi consultation;

- 
- For sites that are not yet identified or that Iwi consider too sensitive to include within the Plan, investigate alternative approaches for their protection:-
    - Development of objectives and policies that provide clear guidance on management of unidentified sites;
    - Inclusion of accidental discovery protocols for certain activities such as earthworks;
    - Requirement for iwi consultation / cultural heritage assessments to be undertaken in areas where there is a high likelihood that cultural values / sites exist (e.g. 2 km inland from the coast);
  - Where cultural landscapes / values are associated with other scheduled items, ensure there is a clear cross reference to the cultural heritage policies and methods in the Plan;
  - Develop a policy framework that provides clarity on when and how Maori should be involved in consent processes,
  - Explore opportunities for co-governance / co-management arrangements for consent applications within cultural landscapes or where cultural values are identified.
  - Explore opportunities to spatially identify areas within the Plan through mapping;
  - Explore the use of schedules to identify values associated with cultural landscapes.
  - Explore opportunities for Iwi organisations to become enabled to be Heritage Protection Authorities;
  - Ensure terminology within the Plan relating to cultural heritage is clear and understood
  - Co-management Volcanic Cones

#### *Non regulatory*

- Work in partnership with Maori to develop an information database/s to maintain a full record of cultural heritage information (including sensitive information that should not be made public);
- Identification of historical landscape as cultural heritage
- Develop toolkits that provide guidance to practitioners / public on “other methods” in which the practices, the stories, the whakapapa about that landscape can be reflected.
- Explore opportunities for Maori to contribute to decision making processes.
- Develop tool kits that provide guidance on ways to identify, manage and protect cultural heritage e.g. <http://www.fndc.govt.nz/services/environmental-policy-and-forward-planning/the-far-north-district-plan/landscape-assessment-1995/Maori-Cultural-Values-in-Far-North-Landscapes.pdf>
- Draft Historic Heritage Plan, currently being prepared by Auckland Council

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## Issue 6 – Recognising the significance of natural features to Maori



Figure 6 – shows the historic terraces formed through historic Maori occupation of Mangere Mountain which are still visible today.

In many cases natural features of all types are of particular significance to Maori because of physical and spiritual associations.

### **Explanation**

Further work is required to document and record the cultural values associated with natural features. This is only a small part of the work required to review Auckland's cultural landscape. A lot of this information will come through iwi consultation on the Unitary Plan, previous consultation, iwi management plans, research, and treaty settlement legislation.

Including information in the natural features schedules would repeat information that is compiled under numerous other overlays.

### **Broad approach**

#### *Regulatory*

- In consultation with Maori consider the development of a stand alone Cultural Heritage overlay that lists all cultural heritage sites and areas and includes schedules that outline the values of each feature / area and suggests an appropriate management response.
- Update natural features schedules to cross reference to the cultural heritage schedules, in determining the significance of natural features to Maori.
- Refer to the cultural heritage policies and methods in the management of natural features with significance to Maori.
- Provide clarity on when, how to involve Maori in consent processes,
- Explore opportunities for co-governance / co-management arrangements for features with significance to Maori.

#### *Non regulatory*

- Information databases to maintain information that Maori do not want made public

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## **6. Significant Issues – Historic Heritage**

### **Issue 1 – Management, protection and conservation**

Historic heritage values are finite and cannot be recreated. Auckland's historic heritage has been depleted in the past and requires active stewardship to protect it for the future.

The management, protection and conservation of historic heritage has been hampered by a lack of information and understanding, development pressures, and a regulatory framework that has been fragmented across the region.

The opportunities to retain, enhance and reveal historic heritage and the returns on investing in heritage management, protection and conservation, are yet to be realised.

#### **Explanation**

Auckland has distinctive historic heritage which is integral to the region's identity. Our heritage values define who we are, where we have been and inform where we are going. Heritage is important for economic, social and cultural well being. As Auckland grows, the existing natural and historic context is key to informing new development or redevelopment; development and redevelopment must be approached in a way that protects or enhances historic heritage value.

The achievement of appropriate management, protection and conservation is the overarching issue for historic heritage.

#### **Broad approach**

##### *Regulatory*

- Development of region wide provisions that require the appropriate management, protection and conservation of historic heritage, including the surroundings and context.

##### *Non regulatory*

- Use incentives including rates relief, grants and guidelines to encourage and inform good practice heritage management, protection and conservation.

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## Issue 2 – Robust information

Efforts to conserve historic heritage can be limited by lack of knowledge. While much is known about the historic heritage values of the region, much also remains to be researched, documented and better understood. Identification of significant historic heritage is not comprehensive throughout the region. Some information is out of date. Information found in existing district and regional plan schedules focuses on certain parts of the region and represents a limited range of items, places and areas of historic heritage.

### Explanation

All legacy councils had a different approach to the protection of historic heritage. Different significance criteria were utilised along with different information requirements, different ways for collecting and storing information, different identification and mapping methods for items, places and areas of historic heritage. The work required for the development of a consistent region wide schedule of historic heritage is substantial.

Identification of significant historic heritage resources is not comprehensive throughout the region; less than 30% of the region had been surveyed for historic heritage sites by 2008 (State of the Auckland Region Report 2010).

Currently over 1600 items, places and areas are scheduled within the district and regional plans. These existing schedules have the following general characteristics:

- Heritage buildings, particularly from the Victorian and Edwardian period, are emphasised compared with other types of historic heritage;
- Sites of significance to Maori are seriously underrepresented;
- Nearly 40% of all scheduled items are on the Auckland isthmus;
- Group values of heritage items are generally poorly recognised and sites, particularly buildings, are often viewed in isolation from their surroundings;
- Limited recognition of historic heritage values of items, places or areas that are post 1940;
- Limited recognition of Auckland's industrial and infrastructure heritage.

The use of a thematic framework can assist in the identification and understanding of historic heritage.

### Broad approach

#### *Regulatory*

- Development of region wide criteria for assessing historic heritage significance and an associated methodology.
- Development of a consistent region wide schedule of historic heritage, based predominantly on 'rolling over' existing scheduled items.
- In addition to existing scheduled items, consideration of following items, places and areas of historic heritage:
  - Prioritised public proposals;
  - NZHPT register of historic places, when not already contained in schedules;
  - Draft Auckland Regional Policy Statement historic heritage schedule, when not already contained in schedules;
  - Auckland Regional Plan: Coastal historic heritage schedule, when there is not consistency across the coastal marine area boundary.
- Map items, places and areas of historic heritage in a consistent way across the region.

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- Development of region wide provisions that require, due to incomplete knowledge and the complex and evolving nature of historic heritage, a cautious or a precautionary approach be adopted including consideration of:
    - Ensuring discretion within decision making to consider known and also subsequently discovered historic heritage; this may require a movement away from existing permitted activity status for demolition and/or earthworks;
    - Developing robust resource consent information requirements specific to historic heritage.

*Non regulatory*

- Continuing development of a historic heritage approach that is holistic, interdisciplinary and recognises interrelationships.
- Development of a thematic framework, region wide.
- Development of a work programme, over a longer timeframe than that of the Unitary Plan, to ensure appropriate recognition of all heritage themes, both regional and local, within the Unitary Plan.
- Development of a work programme, over a longer timeframe than that of the Unitary Plan, to review the information on existing scheduled items, places and areas.
- Development of an archaeological alert layer and/or predictive modelling.

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### Issue 3 – Shared understanding

There is a lack of shared understanding, between experts, Council and communities, of what constitutes our historic heritage. Uncertainty can often arise when discussing the relationship between historic heritage and such concepts as character and amenity. This uncertainty is often enhanced through historic heritage management often being reactive, not proactive, due to poor planning and the limited availability of professional resources.

Maori have their own perspective on managing resources of the region based on knowledge (Matauranga Maori) and values (tikanga).

#### Explanation

Historic heritage can be complex; it is often interdisciplinary and multilayered. Our historic heritage values are continually evolving over time.

Historic heritage includes archaeological sites, historic buildings, places, objects and structures, places of significance to Maori, including waahi tapu, urupa, and places of traditional importance, gardens, trees or other plants with historical or cultural associations, cemeteries and burial places, shipwrecks and other maritime heritage, landscapes and areas of historic or cultural significance and places where significant events have occurred. Effective historic heritage management, protection and conservation should also recognise the interrelationship and group values between individual items and places.

The use of a thematic framework can assist in the identification and understanding of historic heritage.

An issue of much debate, between Council, heritage experts and the community, is the concept of historic character. Historic character is 'character' of a building, place or area that cannot be reconstructed or created. There exist different views about the level of required protection and retention required, or whether change should be provided for, where historic character is identified. Not all the legacy planning documents considered the issue of historic character.

Information on sites of significance to Maori has not been well recorded in district and regional plans, often as this information is sacred (taonga). It is noted that this matter is dealt with more comprehensively in a separate report.

#### Broad approach

##### *Regulatory*

- Development of agreed definitions and use of consistent terminology within the Unitary Plan for historic heritage and historic character.
- Development of region wide provisions that recognise that historic heritage is interdisciplinary, layered and can involve intangible values, such as waahi tapu.
- Development of region wide provisions that recognise that areas and landscapes may have a historic heritage value above and beyond the individual value of a particular item or place, for example significant groupings that are of collective value.
- Development of region wide provisions that recognise that historic heritage is not limited to those features included within the schedules.
- Roll over existing provisions that recognise and 'protect' items, places and areas of significant historic character.
- Development of a work programme, over a longer time frame than that of the Unitary Plan, to ensure appropriate and consistent identification (including significance criteria and

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associated methodology) and tools for the management of items, places and areas of significant historic character within the Unitary Plan.

*Non regulatory*

- Development of a shared understanding of our historic heritage, including a shared language, between Council, experts and the community.
- Involve Maori in the identification, management, conservation and protection of places of cultural significance to Maori and ensure the recognition of Maori expertise and authority of such places.
- Involve and engage with local communities in the ongoing identification of historic heritage and areas of significant historic character.
- Development and ongoing operation of the Historic Heritage Advisory Panel as a collaborative approach between the Council, heritage experts and the community.



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## Issue 4 - Development pressures & opportunities

As the largest and one of the fastest growing areas of the country, continuing development places pressure on Auckland's historic heritage. Growth pressures continue to result in the development and redevelopment of the same, preferred places for settlement. This can result in the layering of values/significance, particularly in areas proximate to Auckland's central area and also to its best natural amenity, being the harbour and the coastal areas.

The opportunities for historic heritage to shine, including the "place shaping" function, have not always been utilised and the interface between old and new development has often been jarring, instead of being successful and integrated.

### Explanation

Auckland's historic heritage is an opportunity, adding to a unique sense of place and identity, making Auckland a more liveable city.

It is not always understood that recognising heritage does not preclude change. Many areas including town centres and residential zoned areas are identified throughout the region as areas likely to provide for growth. Growth, including through intensification, and the conservation of historic heritage can be integrated and complementary.

### Broad approach

#### *Regulatory*

- Development of region wide provisions that ensure that heritage is seen as an opportunity and that different degrees of heritage values require different degrees of heritage management, conservation and protection.
- Provision of historic heritage input into area spatial planning, including the development of a methodology that recognises the opportunities to reveal and enhance historic heritage and the benefits of this in place making.
- Review of the historic character provisions within central area, particularly the Queen Street valley and Karangahape Road ridge.
- Review of transferable development provisions within the central city to encourage and support good practice heritage management, protection and conservation.
- Development of region wide provisions to manage the interface between old and new and encourage innovative design.

#### *Non regulatory*

- Celebration of successful heritage outcomes.
- Utilisation of the opportunities provided by the presence of historic heritage in 'place making' activities across the region.
- Provision of expert advice including the review of existing and preparation of new design guidelines.
- Continuation of heritage expertise on the Council's Urban Design Panel.
- Research into and understanding of international and national best practice to continue to evolve and refine our approach, both regulatory and non-regulatory, so that it is cutting

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edge and effective in the management, conservation and protection of historic heritage and significant areas of historic heritage.

- Development of key indicators of successful heritage outcomes and ongoing monitoring.

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## Attachments

Appendix A Legislative requirements  
Appendix B Number of Notable Trees in Auckland Plans

## Signatories

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## Appendix A – Legislative requirements

There is a range of legislation that is relevant to the identification and management of historic heritage. Some legislation sets the context within which historic heritage needs to be managed, some provide tools and mechanisms that can be used to assist with the management of historic heritage, and others include specific requirements that historic heritage be recognised and provided for.

There are provisions of the Local Government Act 2002, Resource Management Act 1991, Hauraki Gulf Marine Park Act 2000 and the Waitakere Ranges Heritage Area Act 2008, which need to be considered for all topics. This section of the report generally identifies the legislative requirements which are specifically relevant to historic heritage.

### Resource Management Act 1991

The primary legislative direction for the management of historic heritage is to achieve the purpose of the RMA; namely to promote the sustainable management of all natural and physical resources. Within this overall framework, identified within the RMA as a matter of national importance (section 6) is:

- (f) *the protection of historic heritage from inappropriate subdivision, use, and development*

Historic heritage is defined within the RMA as:

*historic heritage—*

- (a) *means those natural and physical resources that contribute to an understanding and appreciation of New Zealand's history and cultures, deriving from any of the following qualities:*
- (i) *archaeological:*
  - (ii) *architectural:*
  - (iii) *cultural:*
  - (iv) *historic:*
  - (v) *scientific:*
  - (vi) *technological; and*
- (b) *includes—*
- (i) *historic sites, structures, places, and areas; and*
  - (ii) *archaeological sites; and*
  - (iii) *sites of significance to Māori, including wāhi tapu; and*
  - (iv) *surroundings associated with the natural and physical resources*

The definition of historic heritage is broad. It is 'place based' and spatial in nature.

Linking to the HPA, the RMA requires (section 66 and 74) that in the preparation of the Unitary Plan regard be had to:

- (c) (iia) *any relevant entry in the Historic Places Register.*

### Part 2 – Purpose and principles

The following sections of the Act are relevant in terms of the management of heritage:-

Section 6, 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 recognise and provide for the following matters of national importance:

- 
- (a) *the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:*
  - (b) *the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:*
  - (c) *the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:*
  - (d) *the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:*
  - (e) *the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:*
  - (f) *the protection of historic heritage from inappropriate subdivision, use, and development:*
  - (g) *the protection of protected customary rights*

Section 7, identifies the following other matters that must have regard to in relation to managing the use, development and protection of natural and physical resources:

- (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*

#### *Section 8 - Treaty of Waitangi*

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 take into account the principles of the [Treaty of Waitangi](#) (Te Tiriti o Waitangi).

#### *Notable and general trees and the RMA*

Section 5 of the RMA sets out the purpose of the act in that it is to provide for 'sustainable management' of natural and physical resources while –

- 5(a) *safeguarding the life supporting capacity of air, water, soil and ecosystems'*

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Section 6 of the Resource Management Act (the Act) deals with 'matters of national importance'. Council is required to recognise and provide for these matters specifically:

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

*6(c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna'*

Section 7(d) refers to the intrinsic values of ecosystems. The definition of intrinsic values in relation to ecosystems '*means those aspects of ecosystems and their constituent parts which have value in their own right, including—*

*(a) their biological and genetic diversity; and*

*(b) the essential characteristics that determine an ecosystem's integrity, form, functioning, and resilience'*

These section 5, 6 and 7 matters contribute to the interpretation of the term '*maintenance of indigenous biological diversity*'. Maintenance can include protection, enhancement and restoration.

Part 2, Section 7(i) of the RMA requires particular regard be given to the effects of climate change. Notable and general trees in the Auckland Regional have an important contribution to climate change through their function as acting as carbon sinks.

### **Resource Management (Simplifying and Streamlining) Amendment Act 2009**

#### *Notable and general trees and the RMAAA*

The Resource Management (Simplifying and Streamlining) Amendment Act 2009 (the Amendment Act) introduced a restriction on the protection of trees in urban environments. Section 76(4A) of the Resource Management Act 1991 (the RMA) now specifies that:

*"... a [district plan] rule must not prohibit or restrict the felling, trimming, damaging, or removal of any tree or group of trees in an urban environment unless the tree or group of trees is—*

*(a) specifically identified in the plan; or*

*(b) located within an area in the district that—*

*(i) is a reserve (within the meaning of section 2(1) of the Reserves Act 1977); or*

*(ii) is subject to a conservation management plan or conservation management strategy prepared in accordance with the Conservation Act 1987 or the Reserves Act 1977."*

Section 76(4B) of the RMA defines 'urban environment' for the purposes of this provision to mean: *"...an allotment no greater than 4 000 m<sup>2</sup>—*

*(a) that is connected to a reticulated water supply system and a reticulated sewerage system; and*

*(b) on which is a building used for industrial or commercial purposes, or a dwelling house."*

The Amendment Act required that trimming provisions were revoked effective from October 2009. The existing Auckland Plan therefore provide for trimming as a permitted activity with respect to tree, or group of trees, in an urban environment. A definition of 'trimming' is not provided in the Resource Management Act.

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In addition to this the Amendment Act directs that from 1 January 2012, any existing district plan rule that contravenes the remaining parts of the above restriction (felling, damage and removal) are revoked. The existing Auckland Operative Plans are currently instigating plan changes in response to 1 January 2012 date.

#### *Changes as a result of the RMAAA*

Section 76(4A) of the RMA now requires local authorities by 1 January 2012 to revoke any general tree protection rule from their District Plan that *prohibit(s) or restrict(s) the felling, trimming, damaging, or removal of any tree or group of trees in an urban environment unless the tree or group of trees is specifically identified in the plan.*

As a result of this Auckland Council has undertaken a nomination process to increase the number of scheduled trees in its Operative District Plans. This is order to provide some protection to the most significant individual trees in the Region prior to 1 January when it was thought that all general tree protection rules would be revoked.

To date approximately 4300 trees have been nominated for scheduling by the Auckland Council Local Boards and members of the public. These are in addition to the 1376 trees nominated prior to amalgamation.

#### *Subsequent developments and lessons for the Unitary Plan*

In response to the recent RMA changes some of the Auckland legacy Councils (North Shore, Waitakere and the Regional Council) approached the Environment Court seeking a declaration. This related specifically to the interpretation of the wording of Section 76(4A) where a *'tree or group of trees specifically identified in the plan'* would be excluded from the need to be revoked.

A decision on this declaration by the Environment Court was made on 20 May 2011. It found that a *'tree or group of trees is specifically identified in the plan'* includes those areas where the values of trees have been specifically identified for that area and that the area was specifically defined in the District Plan.

To assess if the values of trees were specifically identified for an area the relevant objectives and policies would need to be considered. If a defined area has associated objectives and policies which can be used to justify the general tree protection rules then according to the direction set by the declaration these rules would not be required to be revoked. An example may be an objective about trees contributing to the amenity values of the Residential A Zone. A defined area in the Plan can include a specific tree shown on the Planning Maps in the case of a notable tree or it may be a defined area shown on the Planning Maps such as a zone or a coastal protection area.

Legacy Councils seeking the declaration put forward a series of examples from their District Plans of defined areas to test if the general tree protection rules would still apply. All of the areas<sup>2</sup> considered by the Court were thought to have enough supporting objectives and policies for them to remain in the plan and not be revoked as of 1 January 2012.

Currently Councils legal representatives are applying the principles from this declaration across all of the existing Auckland District Plans. This will show in which areas general tree protection rules are able to remain. It is likely that many of the existing tree protection rules will be found to be legal, and therefore able to stay in place beyond January 2012.

The outcome of this declaration will also have a large bearing on the current Operative Plan Changes which are scheduling large numbers of notable individual trees. There will now be cases where the nominated trees will actually remain protected by the blanket tree protection rules which can remain in areas *'specifically identified in the plan'*, and for which therefore scheduling may not be necessary. Currently, this matter is being considered, and is likely to be the subject of a

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<sup>2</sup> With the exception of the Long Bay Structure Plan, which is still before the Courts and therefore not yet operative, and able to be influenced by the Declaration's findings

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political decision. It is very important that any such decision is consistently applied to both the Operative and Unitary Plans – i.e. if it is decided to not proceed with some or all of the proposed scheduling because of the continuing validity of existing tree protection rules, then there will be a greater need for the Unitary Plan to include these or similar rules.

The outcome of this declaration has been highly valuable in terms of interpreting the vision of s76(4A). It will enable Council as part of the Unitary Plan to ensure that an appropriate level of tree protection in the Auckland Region is provided. Here general tree protection rules can only be used in areas where there is supporting policy direction in terms of the values of trees in that area and that the area is defined some way in the District Plan. Nevertheless, the finding that appropriately focussed and drafted general tree protection rules are still legal under the RMA means that the Unitary Plan can continue to utilise this mechanism in appropriate circumstances.

## **Local Government Act 2002**

The LGA states the purpose of local government to promote four well-beings of communities, including cultural well-being, in the present and in the future (section 10). The LGA assists in understanding the legislative context.

The Ministry for Culture and Heritage defines cultural well-being as “the vitality that communities and individuals enjoy through... the freedom to retain, interpret and express their arts, history, heritage and traditions”. Cultural well-being is about “protecting and interpreting our past, linking us to who we are today and our future” ([culturalwellbeing.govt.nz](http://culturalwellbeing.govt.nz)).

## **Historic Places Act 1993**

The HPA purpose is to promote the identification, protection, preservation, and conservation of the historical and cultural heritage of New Zealand (section 4). The HPA again provides context for consideration of historic heritage. The HPA recognises:

- (1) *the principle that historic places have lasting value in their own right and provide evidence of the origins of New Zealand's distinct society.*

The HPA provides for the New Historic Places Trust (NZHPT). The NZHPT is required to establish and maintain a register of historic places, historic areas, wāhi tapu, and wāhi tapu areas (section 22). The register purpose is stated as:

- (a) *to inform members of the public about historic places, historic areas, wahi tapu, and wahi tapu areas:*
- (b) *to notify owners of historic places, historic areas, wahi tapu, and wahi tapu areas where necessary for the purposes of this Act:*
- (c) *to assist historic places, historic areas, wahi tapu, and wahi tapu areas to be protected under the RMA.*

Under the HPA it is not lawful to destroy, damage or modify archaeological sites without authority from the NZHPT (section 10). An archaeological site is defined as:

*any place in New Zealand that*

- (a) *either—*
  - (i) *was associated with human activity that occurred before 1900; or*
  - (ii) *is the site of the wreck of any vessel where that wreck occurred before 1900; and*
- (b) *is or may be able through investigation by archaeological methods to provide evidence relating to the history of New Zealand.*

## **Hauraki Gulf Marine Park Act 2000**



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The HGMPA considers the Hauraki Gulf, its islands and catchments. The purpose of the HGMPA includes to integrate the management of the natural, historic, and physical resources and to recognise the historic, traditional, cultural, and spiritual relationship of the Maori (section 3).

The HGMPA recognises in statute the national significance of the Hauraki Gulf and the need to sustain, protect and where appropriate enhance its life supporting capacity (section 7 & 8). This life-supporting capacity includes the capacity to provide for the historic, traditional, cultural, and spiritual relationship of the Maori of the Gulf with the Gulf and its islands and the social, economic, recreational, and cultural well-being of people.

The HGMPA (section 8) requires the management of the Hauraki Gulf to include:

- (b) *the protection and, where appropriate, the enhancement of the natural, historic, and physical resources of the Hauraki Gulf, its islands, and catchments:*
- (c) *the protection and, where appropriate, the enhancement of those natural, historic, and physical resources (including kaimoana) of the Hauraki Gulf, its islands, and catchments with which Maori have an historic, traditional, cultural, and spiritual relationship:*
- (d) *the protection of the cultural and historic associations of people and communities in and around the Hauraki Gulf with its natural, historic, and physical resources:*
- (e) *the maintenance and, where appropriate, the enhancement of the contribution of the natural, historic, and physical resources of the Hauraki Gulf, its islands, and catchments to the social and economic well-being of the people and communities of the Hauraki Gulf and New Zealand:*
- (f) *the maintenance and, where appropriate, the enhancement of the natural, historic, and physical resources of the Hauraki Gulf, its islands, and catchments, which contribute to the recreation and enjoyment of the Hauraki Gulf for the people and communities of the Hauraki Gulf and New Zealand.*

Under the HGMPA, the coastal environment of the Hauraki Gulf (sections 7 & 8) must be treated as a New Zealand coastal policy statement issued under the RMA.

### **The Waitakere Ranges Heritage Area Act 2008**

The WRHAA establishes the Waitakere Ranges Heritage Area which covers the land area of the Waitakere Ranges and parts of the foothills. Its purpose is to recognise the national, regional and local significance of the Waitakere Ranges heritage area and promotes the protection and enhancement of its heritage features for present and future generations.

The heritage features of the area are defined (section 7), with recognition that individually or collectively these features contribute to the area's significance. The heritage features include:

- (j) *the historical, traditional, and cultural relationships of people, communities, and Maori 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:*
- (m) *the Waitakere Ranges Regional Park and its importance as an accessible public place with significant natural, historical, cultural, and recreational resources.*

### **New Zealand Coastal Policy Statement 2010**

The NZCPS related to coastal areas. Policy 13 of the NZCPS seeks to preserve the natural character of the coastal environment and to protect it from inappropriate subdivision use and development. Here natural character can include ecological and natural elements.

The New Zealand Coastal Policy Statement 2010 (NZCPS), Policy 15(b) requires the protection of natural features and natural landscapes (including seascapes) of the coastal environment from inappropriate subdivision, use and development:

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- (a) *avoid adverse effects of activities on outstanding natural features and Outstanding natural landscapes in the coastal environment; and*
  - (b) *avoid significant adverse effects and avoid, remedy, or mitigate other adverse effects of activities on other natural features and natural landscapes in the coastal environment;*

*including by:*

- (c) *identifying and assessing the natural features and natural landscapes of the coastal environment of the region or district, at minimum by land typing, soil characterization and landscape characterization and having regard to:*
  - (i) *natural science factors, including geological, topographical, ecological and dynamic components;*
  - (ii) *the presence of water including in seas, lakes, rivers and streams;*
  - (iii) *legibility or expressiveness – how obviously the feature or landscape demonstrates its formative processes;*
  - (iv) *aesthetic values including memorability and naturalness;*
  - (v) *vegetation (native and exotic);*
  - (vi) *transient values, including presence of wildlife or other values at certain times of the day or year;*
  - (vii) *whether the values are shared and recognized;*
  - (viii) *cultural and spiritual values for Maori, identified by working, as far as practicable, in accordance with tikanga Maori; including their expression as cultural landscapes and features;*
  - (ix) *historical and heritage associations; and*
  - (x) *wild or scenic values;*
- (d) *ensuring that regional policy statements, and plans, map or otherwise identify areas where the protection of natural features and natural landscapes requires objectives, policies and rules; and*
- (e) *including the objectives, policies and rules required by (d) in plans.*

## **National Policy Statement on Renewable Electricity Generation**

The National Policy Statement on Renewable Electricity Generation (NPSREG) was issued by notice in the Gazette on 14 April 2011.

The preamble of the NPSREG recognizes that the benefits of renewable electricity generation can compete with matters of national importance under section 6 RMA and matters to which decision makers are required to have particular regard under section 7 RMA.

Section 7 of the RMA identifies other matters that in managing the use, development and protection of natural and physical resources, must have particular regard to:-

- (ba) *the efficiency of the end use of energy*
- (i) *the effects of climate change;*
- (j) *the benefits to be derived from the use and development of renewable energy.*

These must be balanced against section 6 matters as the natural resources from which electricity is generated can coincide with areas of significant natural character, significant amenity values, historic heritage, outstanding natural features and landscapes, significant indigenous vegetation and significant habitats of indigenous fauna.

Policies E and F of the NPSREG direct Councils to incorporate provisions for renewable electricity generation activities at a national, regional and local scale into regional policy statements and regional and district plans.

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Policy G directs Regional policy statements and Regional and district plans to include objectives, policies and methods (including rules within plans) to provide for activities associated with the investigation, identification and assessment of potential sites and energy sources for renewable electricity generation.

## **Proposed National Policy Statement -Biodiversity**

### *Notable and general trees*

The National Policy Statement on Biodiversity (NPS) includes a number of policies which Council will be required to 'give effect to' once finalised. The NPS was notified on the 2<sup>nd</sup> of May 2011 and decisions are yet to be released. While the NPS may still be subject to some change the Unitary Plan will need to anticipate and provide for the final direction set out by this NPS.

The proposed policies from the NPS are explained as follows:

#### *Policy 6 – Protecting biodiversity outside of areas considered to be significant*

Policy 6 provides a set of best practice examples (which are not mandatory) to promote the maintenance of biological diversity outside of the areas identified as significant indigenous vegetation and significant habitats of indigenous fauna. These include but are not limited to the following:

- Recognise the contribution all remaining areas of indigenous biodiversity and encourage the retention of as many elements as possible
- Recognise the full range of effects in indigenous biodiversity including fragmentation, degradation, interruption of breeding cycles and migratory pathways and increased exposure to pest species.
- Encourage the retention of vegetation (both native and exotic) where it functions as a food source, connection, linkage and buffer etc...

Consider both regulatory and non regulatory incentives to support and encourage landowners to make appropriate land management decisions

## Appendix B –Number of Notable Trees in the existing Auckland Plans

Existing Auckland District Plan	Number of existing Notable Trees	Types of Notable Trees	Trees nominated for inclusion in Plan Changes
Auckland City Council	Operative (Isthmus and Central)  2579 listings	Tree may be scheduled under three different criteria:  Historic/Cultural value Botanic value Visual amenity value	This list, including trees put forward by Community Boards and the public totals around 302 trees.
Franklin District Council	Operative 24 listings	Generally scheduled for the trees heritage value.	Nil
Manukau City Council	Operative 94 listings (individual and groups of trees)	Tree may be scheduled under 3 different criteria:  Visual appeal Historical value Botanical value	665 trees/groups of trees have been identified to be added to the Schedule.
Shore City Council	Operative  530 listings	Tree may be scheduled under 4 different categories:  A – Most significant trees B – Historic C – Rare or unusual D – Trees of local significance	Proposed – 390 trees
Papakura District Council	Operative 72 listings (individual and groups of trees)	Tree may be scheduled under 3 different criteria: Aesthetic significance Historical significance Botanical significance	Nil
Rodney District Council	Operative Schedule of Notable Trees 95 listings (all exotic) (individual and groups of trees)  Operative Heritage Tree list 17 listings		Approximately 418 trees
Waitakere City Council	Operative Heritage Vegetation Schedule  116 (individual and groups of trees)  Operative Outstanding Vegetation Sites 180 (areas of bush)	One Schedule for Heritage Trees  One Schedule for Heritage Vegetation	276 nominations for trees and groups of trees – total number of nominated trees is not known