



Proposed Plan Change 120: Housing Intensification and Resilience (PC120)

to the Auckland Unitary Plan (operative in
part)

**Section 32 and Schedule 3C of the Resource Management Act 1991 for
qualifying matter:**

Notable Trees

EVALUATION REPORT

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Executive Summary

1. This report discusses the implications of applying notable trees as a qualifying matter (**QM**) to the requirements of clause 4(1)(b) and (c) of Schedule 3C of the Resource Management Act 1991 (**RMA**) and the implementation of policy 3 of the National Policy statement on Urban Development (**NPS-UD**).
2. It evaluates the options that have been considered in determining whether or not the notable trees overlay (**the overlay**) should function as a QM to the intensification areas under Plan Change 120 (Housing intensification and resilience) (**PC120**) to the Auckland Unitary Plan, operative in part (**AUP**). It addresses the various statutory requirements that are to be satisfied for a QM to be valid.
3. Notable trees have both section 6 and section 7 values under the RMA and contribute a wide range of benefits to urban environments. They can also contribute to climate change resilience and reductions in greenhouse gas emissions. These characteristics of mature trees, and notable trees in particular, provide the justification for the status of the overlay as a QM.
4. It is considered that the application of the operative AUP overlay without amendment as a QM would be the most effective and efficient method of ensuring that all relevant NPS-UD, RPS and district plan objectives and policies are appropriately taken into account.
5. The report does not promote alternative height or building standards in any of the affected business, residential or special purpose zones but rather enables full intensification where the notable trees are protected from inappropriate subdivision or development. In other words, development is only limited to the extent necessary to ensure the protection and retention of notable trees. It is the “protected root zone” and the tree trunk and foliage that is subject to the activity rules and standards of the overlay. A property and development-specific evaluation is required to be carried out by the land owner/developer to establish the appropriate balance between intensification and protection objectives, given the many variables identified in the report and the dynamic nature of trees.
6. Overall the impact for development capacity is considered to be minor while the impact for individual properties will vary from negligible to moderate. Options are available to developers to amend designs to accommodate notable trees including by way of variation of development controls through resource consents to achieve appropriate environmental outcomes. The overlay provides for the removal of notable trees as a discretionary activity and while not desirable it is accepted that this might be acceptable where intensification outcomes would be significantly compromised by retention of a notable tree and remediation/mitigation can be achieved.

1. Introduction

7. This report is prepared as part of the evaluation required by section 32 and Schedule 3C of the RMA for PC120 to the AUP.
8. The background to and objectives of PC120 are discussed in the overview report, as is the purpose and required content of section 32 and Schedule 3C evaluations.
9. This report discusses the implications of applying notable trees as a qualifying matter (QM) to the requirements of clause 4(1)(b) and (c) of Schedule 3C of the RMA and the implementation of policy 3 of the NPS-UD. It evaluates the options that have been considered in determining whether or not notable trees should function as a QM under PC120.
10. The Council may make the relevant building height or density requirements of clause 4(1)(b) and (c) of Schedule 3C of the RMA and policy 3 of the NPS-UD less enabling of development in relation to an area within an urban residential or non-residential zone only to the extent necessary to accommodate one or more of the following QMs present:
 - (a) a matter listed in section 77I(a) to (i);
 - (b) any other matter that makes higher density, as specified by clause 4(1)(b) and (c) of Schedule 3C of the RMA or policy 3 of the NPS-UD, inappropriate in an area but only if subclause (4) of clause 8 of Schedule 3C is satisfied.
11. Under clause 8(2) of Schedule 3C of the RMA, the evaluation report required under section 32 of the RMA must in relation to a proposal to accommodate a QM under subclause (1)(a) or (1)(b) of clause 8:
 - (a) demonstrate why the Council considers:
 - (i) that the area is subject to a QM; and
 - (ii) that the QM is incompatible with the level of development provided by clause 4(1)(b) and (c) or policy 3 for that area; and
 - (b) assess the impact that limiting development capacity, building height or density (as relevant) will have on the provision of development capacity; and
 - (c) assess the costs and broader impacts of imposing those limits.
12. Under clause 8(4) of Schedule 3C of the RMA, the evaluation report required under section 32 of the RMA must, in relation to a proposed amendment to accommodate a QM under subclause (1)(b) (an "other" QM), also:
 - (a) identify the specific characteristic that makes the level of development specified by clause 4(1)(b) and (c) or policy 3 inappropriate in the area; and

- (b) justify why that characteristic makes that level of development inappropriate in light of the national significance of urban development and the objectives of the NPS-UD; and
- (c) include a site-specific analysis that—
 - (i) identifies the site to which the matter relates; and
 - (ii) evaluates the specific characteristic on a site-specific basis to determine the geographic area where intensification needs to be compatible with the specific matter; and
 - (iii) evaluates an appropriate range of options to achieve the greatest heights and densities specified by clause 4(1)(b) or policy 3 while managing the specific characteristics.

2. Integrated evaluation for qualifying matters

13. For the purposes of PC120, evaluation of notable trees as a qualifying matter has been undertaken in an integrated way that combines section 32 and Schedule 3C RMA requirements. The report follows the evaluation approach described in **Table 1** below.
14. The preparation of this report has involved the following:
 - assessment of the AUP to identify any relevant provisions that apply to this QM
 - amendments to the operative district plan provisions of the AUP to specify and implement this matter as a QM in accordance with the requirements of Schedule 3C of the RMA
 - review of the proposals of the council's proposed Plan Change 78 concerning this QM to ascertain if anything should be addressed differently for this plan change
 - review of the AUP Maps to assess the spatial application of this QM
 - calculating the number of land parcels in 'intensification areas' that are affected by the notable trees overlay and comparing this with the total number of land parcels in these areas
 - section 32 options analysis for this QM.
15. The scale and significance of the issues is assessed to be minor for notable trees as a QM.
16. This section 32/Schedule 3C evaluation report will continue to be refined in response to submissions and new information received.

Table 1 Integrated approach for any matter specified in section 77I(a) to (i) and any other matter that makes higher density, as specified by clause 4(1)(b) and (c) or policy 3 of the NPS-UD, inappropriate in an area

Standard section 32 steps	Plus clause 8 Schedule 3C steps
Issue Define the problem- provide overview/summary providing an analysis of the qualifying matter	Identify whether an area is subject to a qualifying matter and describe the qualifying matter.
Identify and discuss objectives / outcomes	Identify relevant RPS / district level objectives and policies. Describe why the Council considers the qualifying matter applies to the identified area/s, and whether the qualifying matter is incompatible with the level of development provided by clause 4(1)(b) and (c) of Schedule 3C of the RMA or policy 3 of the NPS-UD for that area. For "other" QMs: Justify why that characteristic makes that level of development inappropriate in light of the national significance of urban development and the objectives of the NPS-UD.
Identify and screen response options	Consider a range of reasonably practicable options for achieving the objectives including alternative standards or methods for these areas having considered the particular requirements in clause 4(1)(b) and (c) of Schedule 3C of the RMA and/or Policy 3 of the NPS-UD and assess the efficiency and effectiveness of the provisions. For "other" QMs, additional requirement: Site-specific analysis that evaluates the specific characteristic on a site-specific basis to determine the geographic area where intensification needs to be compatible with the specific matter.
Collect information on the selected option(s)	Assess the impact that limiting development capacity, building heights or density (as relevant) will have on the provision of development capacity. For "other" QMs: Site-specific analysis that evaluates an appropriate range of options to achieve the greatest heights and densities specified by clause 4(1)(b) and (c) of Schedule 3C of the RMA or policy 3 of the NPS-UD while managing the specific characteristics.

Evaluate options – costs for housing capacity	Assess the costs and broader impacts of imposing those limits on development capacity.
Evaluate option(s) -environmental, social, economic, cultural benefits and costs	Provide an assessment of the benefits and costs of the options in the light of the new objectives introduced by the NPS-UD relating to well-functioning urban environments.
Selected method / approach	Describe how the preferred approach to implementing the qualifying manner is limited to only those modifications to the extent necessary to accommodate the qualifying matter; and how the qualifying matter is applied.
Overall judgement as to the better option (taking into account risks of acting or not acting)	Conclusion as to the implications of the qualifying matter for development capacity to be enabled by NPS-UD in the areas where the qualifying matter applies.

3. Issues

17. The QM being evaluated is notable trees. The AUP has a Notable Trees Overlay which is a management layer containing a set of provisions that have as their primary purpose the protection of trees and groups of trees having significant historical, botanical, ecological or amenity values from damage or destruction by inappropriate subdivision, use or development or inappropriate construction methods (that could affect the root zones of trees).
18. The provisions of the overlay are objectives, policies, rules and a schedule which lists all notable trees by address and legal description (Schedule 10). Notable trees or groups are identified on the AUP maps by green tree triangle or linework symbology ¹. The overlay is Chapter D13 of the AUP. It is supported by provisions in Chapter E38 Subdivision. Schedule 10 is in Chapter L Schedules.
19. The council proposes that the overlay should apply as a QM to give notice to land owners and developers that the development enabled by policy 3 NPS-UD and clause 4(1)(b) and (c) of Schedule 3C of the RMA (intensification areas) may be constrained by the presence of a listed notable tree, trees or a group of trees. The key issue therefore is whether this overlay should function as a QM and how it might affect the height or density of development otherwise enabled.
20. The question as to whether or not an alternative height or density might apply to properties affected by the overlay is challenging. Every situation will be different and

¹ It should be noted that the mapping is not mandatory but the accurate listing in Schedule 10 is, with address and legal description, to ensure full protection of notable trees - refer section 76(4)(A) to 76(4)(D) RMA.

the impact on development capacity for a property may be less than minor or more significant depending on many variables such as the number and size and spread of a tree or trees, their location on a property, the size and shape of the property, the zoning and development controls and the nature of what might be proposed and how much scope for different design options there are to work around a listed tree. The overlay affects a wide range of residential, business and non-residential zones (as well as roads and reserves) in areas proposed for intensification. But it is only the area of the tree or trees on a property that affects development potential. The “protected root zone” is defined and protected along with the tree’s trunk and foliage. There is not a typical site affected by the overlay around which an appropriate uniform alternative standard might be determined.

21. The overlay is an ‘other’ QM in accordance with RMA section 77I(j) relating to residential zones and section 77O(j) relating to urban non-residential zones. The justification for the overlay derives primarily from section 7 of the RMA. It requires, in relation to the use, development and protection of natural and physical resources, decision makers to have “particular regard to”:

(aa) the ethic of stewardship:

(c) the maintenance and enhancement of amenity values: and...

(f) maintenance and enhancement of the quality of the environment.

Notable trees contribute to the amenity values and quality of urban environments in many ways. Amenity values means “those natural or physical qualities and characteristics of an area that contribute to people’s appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes”². The quality of the environment reflects the extent to which its natural and cultural heritage is recognised, protected and retained.

22. Notable trees are also considered to contribute to RMA section 6 values where trees have been scheduled for other reasons. These values may derive from significant coastal environment, indigenous fauna, historic, or cultural heritage characteristics. In this respect the overlay is an ‘existing’ QM in terms of sections 77I / 77O and 77K / 77Q of the RMA.
23. Notable trees are therefore scheduled in the AUP for both section 6 and 7 reasons and all contribute to the amenity values of urban areas in many ways. The benefits of protecting notable trees for present and future generations include amenity, ecological, biodiversity, cultural, and environmental / ecosystem services including land stability, improving air quality, removing particulate pollution, and intercepting rainfall to reduce peak flows of stormwater. Identifying, protecting and retaining notable trees contributes to Auckland’s amenity, quality, character, sustainability and to a “well-functioning urban environment”³. They support reductions in greenhouse gas emissions and add resilience in terms of current and future effects of climate change.

² RMA Section 2 Interpretation

³ NPS-UD Policy 1

24. It is possible for the overlay to apply as a QM without introducing alternative height or density standards. The QM does not necessarily preclude full enablement in intensification areas. Its impact will vary from negligible to moderate as there are a wide range of factors influencing this, as addressed in section 5.
25. It is expected that development capacity will be affected in only a minor way overall. This is because less than one per cent of land parcels in intensification areas are affected and in most cases the impact will not be significant, or a range of options will be available to a developer to address competing objectives, which are addressed in section 4.

4. AUP approach to managing qualifying matter

26. As stated in section 3 above, the overlay consists of objectives, policies and rules with trees listed in Schedule 10 by street address and legal description. Notable trees or groups are identified on the AUP maps by green tree triangle or linework symbology for groups. The symbology also indicates either a verified or unverified location of a tree.
27. The overlay controls the area of a property that is within the defined “protected root zone” of the tree/s, and rules and standards govern what can occur in this zone and to the tree trunk or foliage. Low impact activities such as ‘tree trimming or alteration’ are permitted within certain parameters and are otherwise a restricted discretionary activity (for which consent is required). Certain works within the protected root zone are permitted, subject to standards. Tree removal is a discretionary activity (consent required). In all zones, where the protected root zone or tree foliage may be affected and requires consent then an overall evaluation of the site’s development would take place arising from the presence of the QM and the overlay controls. Policy 4 of RPS B4.5.2 and policy 2 of D13.3 provide the basis for assessing tree removal applications, as detailed further below.
28. The approach in, and provisions of, the AUP were addressed through the proposed AUP hearings process of 2014 – 2016.
29. The notable trees overlay as operative in the AUP is not proposed to be changed in order for the overlay to function as a QM, other than text inserted to D13.1 and Schedule 10 to indicate this function. The overlay is considered to be operating well to protect notable trees and Schedule 10 is constantly being reviewed and corrected, including automatically due to subdivisions affecting addresses or legal descriptions.
30. Trees are added to the schedule following a comprehensive nomination, evaluation and plan change process. Plan Change 113 is in process at present. It seeks to add 174 new individual trees and 29 new groups of trees to Schedule 10. This involves adding 161 new entries to the schedule, either by adding trees to properties with no existing scheduled trees or by adding more trees to properties already on the schedule. Once notable trees are added to the operative schedule they form part of the overlay and also then function as part of the QM.

Objectives and Policies (existing)

31. The relevant AUP objectives and policies that support the notable trees QM are as shown below in **Table 2**:

Table 2: AUP objectives and policies that support the notable trees overlay as a QM

AUP Chapter	Objective / Policy	Summary of matter addressed
RPS B4.5.1 Objectives	(1) Notable trees and groups of trees with significant historical, botanical or amenity values are protected and retained	This sole RPS objective provides the overarching support for the protection of notable trees.
RPS B4.5.2 Policies	(1) Identify and evaluate a tree or group of trees as notable considering the following factors: a) heritage or historical association:..... b) scientific importance or rarity: c) ecosystem service or environmental function:..... d) cultural association and accessibility:... e) intrinsic value:.....	This policy sets out the factors for determining the potential significance of a notable tree or group for scheduling
RPS B4.5.2 Policies	(2) Evaluation of the factors in policy B4.5.2(1) above is to take into account the effects of the tree or group of trees on all of the following: (a) human health; (b) public safety; (c) property (d) amenity values, and (e) biosecurity.	This policy sets out other factors that are to be taken into account in a consideration to schedule a tree or group. These may count against a tree being scheduled.
RPS B4.5.2 Policies	(3) Include a notable tree or group of trees in Schedule 10 Notable Trees Schedule.	Notable trees are required to be listed / scheduled, with address and legal description being minimum requirements.
RPS B4.5.2 Policies	(4) Avoid development that would destroy or significantly adversely affect the identified values of a notable tree or group of trees unless those effects are otherwise appropriately remedied or mitigated.	This policy seeks to avoid the loss of notable trees or significant threats to them and provides for remediation or mitigation.
District Plan D13.2 Objective	(5) Notable trees and notable groups of trees are retained and protected from	This sole district plan objective describes the adverse effects that threaten notable trees.

AUP Chapter	Objective / Policy	Summary of matter addressed
	inappropriate subdivision, use and development.	
District Plan D13.3 Policies	(1) Provide education and advice to encourage the protection of notable trees and notable groups of trees in rural and urban areas. (2) Require notable trees and notable groups of trees to be retained and protected from inappropriate subdivision, use and development, by considering.....: (refer to paragraph that follows the table)	This policy outlines the council's non-regulatory approach to the protection of notable trees. These initiatives may have a bearing on developers' attitudes to tree protection. This policy sets out a range of factors that are relevant to the consideration of applications for consent to restricted discretionary and discretionary activities.

32. District Plan policy 2 in the table above has the following matters to be considered when consent applications are submitted, including requests to remove listed trees. It supports RPS policy 2 which seeks to "Avoid development that would destroy or significantly adversely affect the identified values of a notable tree or group of trees ...". It covers a wide range of factors including whether infringements of standards in underlying zones would be beneficial for the tree/s, a factor which can assist the achievement of desired height or density:

- (a) the specific attributes of the tree or trees including the values for which the tree or trees have been identified as notable;
- (b) the likelihood of significant adverse effects to people and property from the tree or trees;
- (c) the degree to which the subdivision, use or development can accommodate the protection of the tree or groups of trees;
- (d) the extent to which any trimming, alteration or removal of a tree is necessary to accommodate efficient operation of the road network, network utilities or permitted development on the site;
- (e) alternative methods that could result in retaining the tree or trees on the site, road or reserve;
- (f) whether minor infringements of the standards that apply to the underlying zone would encourage the retention and enhancement of the tree or trees on the site;
- (g) whether the values that would be lost if the tree or trees are removed can be adequately mitigated;
- (h) whether the proposal is consistent with best arboricultural practice;
- (i) methods to contain and control plant pathogens and diseases including measures for preventing the spread of soil and the safe disposal of plant material; and

- (j) the provision of a tree management or landscape plan.
33. The objectives and policies are aimed at safeguarding all notable trees but provide for circumstances where tree removal or trimming is the only option and also promote a flexible approach to the development standards of underlying zones where this might enable development potential to be realised and trees protected. There is therefore scope to minimise the impact that the overlay as a QM has on development potential and where intensification areas under the PC120 provide for greater height and density (than operative) there is expected to be greater scope to amend designs to accommodate notable trees and still achieve satisfactory development outcomes.
34. As outlined in Section 3 Issues, notable trees contribute in many ways to the amenity, quality and resilience of the urban environment. Their protection from inappropriate removal and harm from subdivision and development is considered a significant issue that justifies the overlay as a QM that may in some situations mean that protection of a tree or trees is “incompatible with the level of development” that is proposed. The impact of the overlay will vary from property to property, from little or no impact to a moderate impact.

Rules and methods (existing)

35. The activity table of the overlay follows. There are standards for ‘tree trimming or alteration’ and for works within the ‘protected root zone’, which is defined as:
- “The circular area of ground around the trunk of a protected tree, the radius of which is the greatest distance between the trunk and the outer edge of the canopy. For columnar crown species the protected root zone is half the height of the tree.”

Tree removal is a discretionary activity and is subject to the normal tests as to notification, which means that applications may be non-notified, limited notified or fully notified.

Table D13.4.1 Activity Table

Activity	Activity status
(A1) Biosecurity tree works	P
(A2) Dead wood removal undertaken by a qualified arborist	P
(A3) Dead wood removal not undertaken by a qualified arborist	C
(A4) Emergency tree works	P
(A5) Tree trimming or alteration	P
(A6) Tree trimming or alteration that does not comply with Standard D13.6.1	RD
(A7) Tree removal	D
(A8) Works within the protected root zone to enable trenchless methods at a depth greater than 1m below ground level	P
(A9) Work within the protected root zone not otherwise provided for	RD

36. The Auckland-wide subdivision provisions of chapter E38 Subdivision – Urban have operative provisions that protect notable trees in all relevant zones by requiring development and building sites to be clear of the protected root zones of notable trees

(E38.8.1.1. Site shape factor in residential zones; E38.9.1.1. Site shape factor in business zones).

5. Development of Options

37. Section 32 of the RMA requires an examination of the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of the RMA. The overall objective (purpose of the proposal) of Plan Change 120 has two key objectives – it proposes:

- measures to better manage significant risks from natural hazards region-wide; and
- an amended approach to managing housing growth as a result of no longer incorporating the medium density residential standards (MDRS), but providing for intensification in a way that complies with clause 4 of Schedule 3C of the RMA by:
 - providing at least the same amount of housing capacity as would have been enabled if Plan Change 78: Intensification (PC78), as notified, was made operative, including by providing for additional intensification along selected Frequent Transit corridors and modifying zoning in suburban areas through an amended pattern of Residential - Mixed Housing Urban and Mixed Housing Suburban zones;
 - enabling the building heights and densities specified in clause 4(1)(b) and (c) of Schedule 3C of the RMA within at least the walkable catchments of Maungawhau (Mount Eden), Kingsland, Morningside, Baldwin Avenue and Mount Albert Stations;
 - giving effect to Policy 3 (c) and (d) of the National Policy Statement on Urban Development 2020 (NPS-UD) through intensification in other walkable catchments and land within and adjacent to neighbourhood, town and local centres;
 - enabling less development than that required by clause 4(1)(b) and (c) of Schedule 3C or Policy 3 of the NPS-UD where authorised to do so by clause 8 of schedule 3C.

Section 32 requires a range of options to be considered.

38. In addition, as the notable trees overlay is a QM that involves "any other matter that makes higher density, as specified by clause 4(1)(b) and (c) of Schedule 3C of the RMA and/or policy 3 of the NPS-UD inappropriate in an area", a site specific analysis is required that evaluates an appropriate range of options to achieve the greatest heights and densities specified by clause 4(1)(b) and (c) of Schedule 3C of the RMA and/or by policy 3 of the NPS-UD, while managing the "specific characteristic".

39. Clause 8(4) of Schedule 3C of the RMA has requirements for QMs that are also "other" QMs. Each is now addressed. As already identified, notable trees have both section 6 and section 7 values so the overlay is both an existing and "other" QM.

40. The bundle of values that any particular tree or group has is the “specific characteristic” that is required to be identified under clause 8(4)(a) of Schedule 3C. It is these values combined with the numerous benefits that accrue from tree protection that form the justification as to why the specific characteristic may make any particular level of enabled development inappropriate notwithstanding the national significance of the intensification objectives of the NPS-UD and Schedule 3C.
41. Clause 8(4)(c) of Schedule 3C requires a “site-specific analysis” that firstly identifies the site/s to which the QM relates. This is achieved by the location of the tree symbology on the AUP maps - along with the address and legal description in Schedule 10 - that identifies the affected property and typically the location of the tree on the property. Where an ‘unverified’ position is marked on the maps, the council will have further records that can identify the location/s. Therefore, the identification of the site of the QM, and the relevant tree/s, is clear.
42. Clause 8(4)(c) secondly requires a site-specific evaluation to determine the geographic area where intensification needs to be compatible with the QM (the “specific matter”). Again, this is achieved primarily by way of the tree symbology on the AUP map but the critical information regarding an affected property is found in the schedule being the address and legal description of the property containing the notable tree/s. Schedule 10 is under constant review for accuracy, by either plan change - such as PC29, operative 9 July 2021 - or clause 20A corrections arising from subdivision or other processes (such emergency works that remove trees). PC113 is proposing to add 174 new individual trees and 29 new groups of trees to Schedule 10.
43. The “geographic area” is further defined under the overlay. It is only that part of the property that has a protected tree or trees that is subject to the provisions of the overlay. AUP rule C1.4(1)(c) states that a “proposal must comply with the rules applying to the particular part of the site in which the relevant part of the proposal is located”. The overlay controls the area that is within the ‘protected root zone’ of the tree/s, and rules and standards govern what can occur in this zone and to the tree/s in that zone.
44. Clause 8(4)(c) requires a site-specific evaluation of an appropriate range of options to achieve the greatest heights and densities specified by clause 4(1)(b) and (c) or policy 3 (intensification areas).
45. It is not considered feasible to evaluate a ‘range of options’ for each property affected by this QM for the following reasons.
 - a) the overlay affects the full range of zones in the intensification areas – business (7 zones), residential (4) and special purpose (5);
 - b) the density enabled in each zone varies from 100% coverage to less than 35% and so the impact of a single tree would vary from nil to moderate;
 - c) the height enabled in each zone also varies under the PC120 from 50m to 8m;
 - d) notable trees vary in terms of their number and location on a property, and their shape and size. Factors affecting tree health, such as shading and cover of root zones, will also vary from tree to tree and property to property;

- e) the 'specific characteristic' that is to be managed - the values of notable tree/s - will not necessarily require a limitation on height or density for any given property where the specific characteristic can be protected;
 - f) the full enablement under the PC120 may be possible, and notable trees protected, with variations or infringements of the standards of the applicable zone (that do not generate other adverse effects). Overlay policy D13.3(2)(f) provides for this. An alternative standard may unnecessarily limit development for any given property and be seen to be arbitrary.
 - g) trees can be pruned, removed or relocated to make way for development but the appropriateness of this can only be determined at the time of consent along with the options for remediation or mitigation (or building design changes);
 - h) the number of variables involved means that a 'typical site' is not definable and therefore a 'one rule for all' (height and/or density standard) is not feasible. Nor is it considered practicable, effective or efficient to specify alternative height and/or density standards for each zone that will necessarily ensure the protection of the notable trees because of the variability of trees, their location, sensitivities and dynamic nature. There is a high likelihood that such standards would seem arbitrary and not tailored adequately for given situations.
46. Each situation will require a site-specific evaluation by the developer that considers the enabled development potential and design alongside the values of the tree/s and the options available for altered designs or remediation / mitigation proposals. The impact of the overlay will vary from little to moderate or significant. While considered inappropriate, the removal of notable trees is an option that is available where it is assessed and determined that intensification outcomes are significantly compromised and mitigation/remediation can be achieved. Any resource consents that are required can be assessed against all relevant objectives, policies and criteria.
47. It would be challenging and prohibitively costly for the council to carry out site-specific evaluations for every property when compared with the overall impact on development capacity that notable trees would have. Within the intensification areas of the PC120 there are 689 parcels of land affected by either notable trees or group of trees. This represents less than one per cent of the total number of land parcels in these areas.⁴
48. It is not considered appropriate as an option to not specify the overlay as a QM for PC120. The values and benefits of notable trees are considered significant and where section 6 values are also present then protection is of national importance. The overlay as a QM serves to given notice to developers that some impact on achieving the full enablement under the RMA and NPS-UD may occur and that the RPS and district plan objectives of the AUP, along with objectives 1 and 8 of the NPS-UD, need to be addressed alongside those promoting intensification.

⁴ The total number of parcels used in this calculation of 77,978 is for all zones, including open space and special purpose zones, so the ratio for intensification areas will be slightly greater than 0.88 per cent. A total of 910 trees and 54 groups is involved. For all of urban Auckland the figure is also less than one per cent of total property parcels affected by the overlay (involving 6-7000 trees across 3200 sites).

Consequences for development capacity

49. The consequences for the provision of development capacity by accommodating the notable trees overlay QM are considered to be minor overall as less than one per cent of land parcels in intensification areas are affected.
50. The overlay does not trigger an automatic reduction of height or density in any zone. Each situation requires to be evaluated against the relevant rules, objectives, policies and assessment criteria. The overlay supports infringements of zone standards that can achieve the protection of notable trees without generating other adverse effects.
51. The consequences for some properties may be of more than minor significance where properties have a significant uplift in development capacity under the PC120 but at the same time the greater enablement (of more generous standards) may mean that the developer has more design options and the overall impact for a property is not significant. Significant trees can add a great deal of value to new developments that are sensitively designed, and mature and notable trees are increasingly important as areas intensify.

Evaluation of options

52. To determine the most appropriate response for Notable Trees as a qualifying matter, each of the options needs to be evaluated in the context of the objectives and of clause 4(1)(b) and (c) of Schedule 3C of the RMA and policy 3 of the NPS-UD.
53. There are considered to be just two options for the QM of notable trees: Either the overlay is specified to be a QM (Option 2) or it is not (Option 1).
54. Option 1 of removing the overlay from intensification areas is not considered appropriate as this would put all affected notable trees at significant risk of removal, contrary to Auckland Regional Policy Statement objective B4.5.1(1):

“Notable trees and groups of trees with significant historical, botanical or amenity values are protected and retained.”

It would also fail to promote NPS-UD objectives 1 and 8 which are:

Objective 1: New Zealand has well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future.

Objective 8: New Zealand’s urban environments: (a) support reductions in greenhouse gas emissions; and (b) are resilient to the current and future effects of climate change.

55. If the overlay is not specified as a QM it would still affect development as a district plan control but developers may not be alerted to its significance early enough in the development process.

Table 3: Evaluation of options

Qualifying matter	Option 1: Overlay is not a QM	Option 2: Overlay is a QM
Costs of applying QM on housing supply / capacity	NA	Nil to moderate, depending on a wide range of factors.
Costs: Social	Community perception that notable trees overlay is not a valued control	Full recognition that the notable trees overlay is a significant factor in the development process.
Costs: Economic (not otherwise covered by housing capacity issues)	Developers may find out late in the design/development process that the overlay impacts development. Plans may require adjustment or additional consents may be required, adding costs.	Developers establish early in the design/development process that the overlay may impact development.
Costs: Environmental	There should be no significant difference between the two options.	There should be no significant difference between the two options but there is a greater risk of loss of notable trees if the overlay is not specified as a QM and developers are not alerted to its role soon enough in the development process.
Benefits of applying the QM - social	NA	Full recognition that the notable trees overlay is a significant factor in the development process.
Benefits - economic	There are no economic benefits as the D13 overlay would still apply. Developers may not become aware of the overlay controls until later in the consenting process.	Notable trees are protected and retained and contribute to a well-functioning urban environment that is characterised by high amenity, quality and resilience. Intensification is not significantly impacted.
Benefits – environmental	There should be no difference between the two options.	There should be no difference between the two options but there is less risk of loss of notable trees if the overlay is specified as a QM so that developers are alerted to its role early in the development process.

Analysis

56. Option 2 of specifying the overlay as a QM is considered the most appropriate because it provides an appropriate and targeted alert to developers in response to the greater enablement under PC120 for intensification areas and is an appropriate response to all the relevant and competing objectives and policies.

Risks or acting or not acting

57. Section 32(2)(c) of the RMA requires an evaluation to assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions. It is considered that the values and benefits of notable trees are well understood by the community and that the AUP method of listing notable trees⁵ and demarcating them on the maps is a robust method that is also well understood by developers. This method satisfies the requirements of the RMA for the application of both an 'existing' and 'other' QM under the act.

Effectiveness and efficiency

58. The AUP method of implementing the overlay as a QM involves applying the existing operative overlay without amendment to the intensification areas. The addition of text to specify the QM function occurs in chapter D13 and in Schedule 10 - Notable Trees Schedule. This alerts readers of the plan to the potential role of the overlay to affect the extent to which the full enablement in intensification areas may be achieved.
59. The overlay itself has a simple rule structure which permits or requires consent for activities according to the potential of the activity to generate adverse effects for notable trees. A range of actions is possible and consent can also be sought for the removal of a notable tree as a discretionary activity; that is, the longer plan change process is not required to remove a tree from the schedule. This is considered to be an effective and efficient method for evaluating the effects of tree removal where retention may significantly compromise intensification outcomes.

Overall conclusion

60. In conclusion, the council considers that the notable trees overlay should function as a QM in intensification areas because:
- a) Notable trees are a natural heritage resource with a range of important - including nationally important - values that contribute to the character, amenity, resilience and sustainability of Auckland's urban environment, both at a micro scale at the location of individual trees and at the macro scale for the wider locality. They also contribute to a "well-functioning urban environment" because of the broader ecosystem functions they perform collectively
 - b) It is appropriate that land owners and developers are alerted at the earliest time to the potential impact that the overlay might have for proposed developments and the identification of the overlay as a QM serves this purpose
 - c) The nature of notable trees are such that the overlay can apply as a QM without the imposition of alternative height or density standards in any of the affected zones in intensification areas. The overlay may or may not constrain enabled development under the PC120 depending on a wide range of factors and any alternative height or density standards, even if zone specific, would likely be arbitrary given so many variables and the dynamic nature of trees

⁵ According to criteria in RPS B4.5.2 policies (1) and (2).

- d) The overlay is an efficient and effective method to protect notable trees and also provides a range of options, including tree removal as a discretionary activity and support for rule infringements, such that for any given property greater weight can be given to either intensification or protection objectives depending on all the factors of a case
- e) Overall the impact of the overlay on development capacity for intensification areas is not expected to be significant because the overlay affects less than one per cent of land parcels in these areas.

Information Used

The following documents were used to help development of the plan change and assess the Notable Trees Overlay as a QM.

Name of document, report, plan	How did it inform the development of the plan change
Operative Auckland Unitary Plan – Chapter B4 Te tiaki taonga tuku iho – Natural heritage	Sets out notable trees as a key natural heritage resource to be protected from inappropriate subdivision, use and development and the evaluation criteria used to determine notable status of trees.
Operative Auckland Unitary Plan – Chapter D13 Notable Trees Overlay	Sets out the objectives, policies, rules and assessment criteria for: - Protecting notable trees from inappropriate subdivision, use and development - Evaluating notable tree resource consent application - Using sites with notable trees appropriately.
Operative Auckland Unitary Plan – Chapter L Schedules – Schedule 10 Notable Trees Schedule	Lists notable trees by street address and legal description. The listing also states the botanical and common name and number of trees and the locality.
Operative Auckland Unitary Plan maps (GIS viewer)	Identifies the location and extent of notable trees and notable groups of trees by use of green tree triangles and green linework/shapes for groups. A red spot on a triangle indicates an unverified position.
Statistics from the GIS team as to numbers of land parcels in Auckland and for intensification areas that contain a notable tree or notable group of trees	Provides information to support the evaluation of the degree of impact of the QM on properties in intensification areas and comparisons with the wider Auckland urban area.
AUP Plan Change 29 section 32 evaluation report	Provided information on the work undertaken as part of the Plan Change 29 process to achieve an accurate Schedule 10 as at 2020/2021 (this verification work is ongoing)
AUP proposed Plan Change 113 notified 22 May 2025	Proposes to add 174 individual trees and 29 new groups of trees to the schedule. It is noted that there is immediate legal effect for seven listings. This change indicates the council's ongoing work programme to achieve an up to date Schedule 10.

Consultation summary

Limited consultation on PC 120 has been undertaken, and this is detailed in the Auckland Council September 2025 reports entitled:

CONSULTATION AND ENGAGEMENT ON A PROPOSED PLAN CHANGE POTENTIALLY REPLACING PROPOSED PLAN CHANGE 78 – INTENSIFICATION SUMMARY REPORT

MĀORI ENGAGEMENT CONSULTATION SUMMARY REPORT