

Who's
putting local
issues on
the national
agenda?

**We are.
LGNZ.**

Te Kāhui Kaunihera o Aotearoa.

2021 Annual General Meeting

Remits

1

Tree Protection

Remit: That LGNZ advocate that the provisions that were added to the RMA, that restricted tree protection, be repealed urgently and that this change be carried through into new resource management legislation, thereby restoring the right to councils to adopt and enforce locally appropriate policies to protect trees in their district. That LGNZ advocate to use the current RMA reform process to ensure these changes are carried through into new legislation.

Proposed by: Auckland Council

Supported by: Auckland Zone

Background information and research

1. Nature of the issue

The community have raised concerns about the loss of significant trees and urban canopy cover in Auckland, and the negative environmental impact this causes. The amendments to the RMA in 2012, which removed general tree protection, have limited council's ability to apply regulatory protections to trees on private properties.

Urban areas are suffering from a progressive and randomly located loss of tree cover or ngahere. This is causing a loss of quality of life amenity, loss of wildlife corridors and biodiversity, declining precipitation permeability, as well the loss of carbon sequestration and cooling effects of trees in urban settings. Auckland research shows this is not principally a consequence of intensification and development, but predominantly the overall net effect of individual decisions by landowners. The remaining tree protection tools available to councils, particularly the formal scheduling of individual or small groups of trees, are too complex, expensive, slow and limited to be effective in countering the loss of valuable trees and this progressive loss of tree cover.

The ability for councils to develop locally appropriate policies, such as Auckland's former General Tree Protection, needs to be restored urgently, and in the longer term, reflected in new legislation.

2. Background to the issue being raised

A well-managed, flourishing, and healthy urban ngahere has a wide range of evidence-based benefits and is increasingly essential in assisting our climate mitigation, adaptation and response work. The ngahere plays a significant role in contributing to positive urban amenity and creating a healthy living environment with many social, cultural, economic, and environmental benefits.

Urban Ngahere Strategy

Recognising these benefits, Auckland Council developed a strategy for Auckland's urban ngahere which was published in March 2019 [here](#).

The Urban Ngahere Strategy is the central policy vehicle for managing and growing Auckland's urban forest. The strategy aims to increase the knowledge of Auckland's urban ngahere and use that knowledge to protect, grow and maintain trees and other vegetation in Auckland's existing and future urban areas. It identified 18 high-level implementation actions to support the primary strategy outcome to increase the regional tree canopy cover average from 18.3 per cent to 30 per cent with no local board <15 per cent canopy cover, and recognised that collaboration, funding and partnerships are all fundamental to successful implementation.

Research to identify changes in urban ngahere canopy coverage in the Auckland Region between 2013 and 2016/2018 was undertaken by Auckland Council's Research, Investigations and Monitoring Unit (RIMU) with results published in the April 2021 report 'Auckland's urban forest canopy cover: state and change' (2013- 2016/2018). Revised April 2021 [here](#).

Key findings of the report can be summarised as follows:

- While urban canopy cover is 18 per cent, across the 16 urban local boards canopy cover ranges from eight to 30 per cent. Eleven of the 16 urban local boards met the minimum threshold of 15 per cent average canopy cover.
- Over the three- to five-year period, change in canopy cover was neutral: although a slight increase (0.6per cent) in cover was detected across all the local boards, it is likely within the margin of error (and not statistically significant). This is also well below the 30 per cent goal identified in the strategy.
- Net changes (difference between losses and gains) across the 16 urban local boards between 2013 and 2016/2018 ranged from minus 5 per cent to positive 9 per cent.
- The biggest net loss in terms of hectares was minus 129 hectares with the biggest net gain being positive 62 hectares.
- Initial analysis indicate that losses are widespread, but locations experiencing more losses than gains are typically privately-owned land and/or rural areas.
- Findings appear to indicate that height distribution of the canopy surface (2016/2018) is skewed toward the lower height classes with 75 per cent of the canopy surface being less than 10m and less than 5 per cent 20m or above.

RMA Amendments 2012

Council's ability to apply regulatory protections was deliberately limited by the RMA amendments in 2012 which prevented the use of general (or blanket) tree protection in urban areas. The intent was to reduce high transaction costs caused by the large number of resource consents required. An unfortunate consequence of this amendment was the exacerbation of the scale of tree loss across the region, particularly in urban areas, as identified by the RIMU key findings report.

Non-regulatory tools

Since the RMA amendments came into effect, councils have depended mainly on non-regulatory and private initiatives to control the removal of trees and vegetation on private properties. Examples include landowner advice and assistance with tree care and planting, community education and outreach programmes, raising awareness of the value and benefits of the urban ngahere, the Indigenous Biodiversity Strategy and the "Million Trees programme".

Regulatory tool – Auckland Unitary Plan

Council's main regulatory technique for managing and protecting the urban ngahere is the AUP. The Regional Policy Statement (RPS) within the AUP contains a number of objectives and policies relating to the natural environment, including trees. It recognises the importance of Auckland's distinctive natural heritage and the numerous elements that contribute to it, with trees being an integral component. The AUP contains rules relating to Significant Ecological Areas (SEAs), the schedule of Notable trees, and rules to limit the extent of vegetation removal in sensitive environments, like streams and coastlines. These regulatory tools apply to trees and vegetation on private properties but the protection they afford is specifically targeted to the issue they address. For example, to qualify as an SEA, a group of trees must satisfy robust ecological significance criteria and it can be difficult to justify the protection of individual trees or small groups of trees.

The influence of the Notable Tree Schedule to protect and increase urban canopy cover is also minimal given that the current 6,000 to 7,000 urban trees included in the schedule only represent a tiny fraction of Auckland's urban tree canopy cover. The purpose of the schedule is to protect Auckland's most significant trees. Any nominated tree or groups of trees need to meet specific criteria for protection, which include particular features such as botanical significance, amenity or historic value. Scheduling is not the appropriate mechanism to protect all urban trees worthy of protection. To attempt to use the schedule as a de facto form of general tree protection undermines its integrity and contributes to its devaluing.

Even where trees do meet scheduling criteria, the time and resources to enact the scheduling can be prohibitive. For example, nominations for an individual tree or group of trees to be included in the Notable Tree Schedule need to go through a full process under the Resource Management Act via a plan change. This is a significant process which involves professional assessment and a public submission process. The costs to council of adding trees into the schedule have been calculated at \$1484.00 (Attachment A). This reflects the process steps and expertise required to support the plan change process to enable the addition of trees into Schedule 10 of the AUP. These processes are also often very contentious, with strenuous opposition from reluctant landowners, further increasing costs and delays.

Limitations of current tools

The level of protection offered by the methods outlined above are not sufficient to be able to achieve Auckland Council's strategy goals and enjoy the benefits of a healthy urban ngahere outlined above. There is a need for better protection of trees in urban environments and in particular on private properties and/or rural areas where most losses seem to occur.

Trees make a positive contribution to Auckland's climate and environment. For example, the habitat value for mobile species, increasing carbon sequestration and reducing net greenhouse gas emissions. By enabling protection of additional trees from removal council would have the regulatory power required to ensure Auckland's urban canopy cover is maintained and increased over time. This would have further positive effects on Auckland's climate and environment by protecting additional trees from removal.

It is also important to recognise that urban tree protection need not affect growth and intensification goals. Urban tree protection simply prompts development proposals to design in context to site opportunities and constraints. Relaxing other controls such as height, coverage or yard setbacks frequently accompany tree retention outcomes from development.

3. New or confirming existing policy

Mayor Phil Goff has also advocated for greater tree protection on two earlier occasions and this remit proposal is consistent with his requests. The letters to Minister Parker are attached.

4. Does the issue relate to objectives in the current LGNZ business plan? How?

This issue relates to LGNZ's Environmental issues portfolio and Resource Management workstream. The solutions outlined in this remit align with and advance LGNZ's Vision and purpose.

Environmental (issues portfolio)

Leading and championing policy and working with central government, iwi and stakeholders to address the increasing impact of environmental issues, including climate change, the quality and quantity of New Zealand's freshwater resources, reducing waste and protecting biodiversity.

Resource Management (LGNZ workstream) This project seeks to:

Engage in the resource management reform process to ensure that the voice of communities continues to be central in how New Zealand's resources are used. Furthermore, a key focus will be to ensure that changes to the legislation work for urban, provincial and rural New Zealand remain enabling.

5. What work or action on the issue has been done

Urban Ngahere Strategy implementation update

An update on the implementation of Auckland's urban ngahere strategy outlining key initiatives and progress made towards strategy outcomes was presented to members of Auckland Council's Environment and Climate Change Committee in July 2020. The update provided a detailed overview of initiatives to improve the understanding of Auckland's urban ngahere (Knowing), to increase the urban ngahere canopy cover (Growing) and to preserve the urban ngahere (Protecting). The update report can be found [here](#).

Plan Change 29: Amendments to Schedule 10 of the AUP

Since the AUP became operative in part, Schedule 10 has been amended once via Proposed Plan Change 29 (PC29). PC29 amended errors and inconsistencies in the Schedule 10 text and maps. The intention of PC29 was to provide clarity for property owners about the location, number and species of scheduled tree(s) on the property. PC29 did not add to or re-evaluate existing trees on the schedule, the aim was only to ensure that the current Schedule 10 was correct and up to date and to improve the overall usability of the document.

At the time PC29 was presented to council it was proposed that nominations for additions to/removals from Schedule 10 would not form part of the plan change process. Any submissions for additions to/removals from the Schedule would be considered as a separate matter at a later date, when resources permit.

PC29 was notified on 15 August 2019 and the decision was notified on 28 January.

Grants

High-level action in the urban forest strategy: 14. Increase landowner grants and incentive programmes (eg heritage tree fund for private property owners)

Update July 2021:

Auckland Council administers several grants programmes for planting on private property, including:

- The Regional Environment and Natural Heritage Grant scheme (total funding \$675,000) – open to individuals, community groups, hapū, iwi, whānau, marae organisations, trusts and all other organisations that contribute to the protection and improvement of regional significant areas and/or promote efficient and sustainable resource use.
- The Community Facilitation and Coordination Fund (funded through NETR, total funding in 2018/19FY of \$4,740,000) – support local community groups to facilitate projects with a biodiversity/restoration focus.
- The Biodiversity Focus Areas Fund is currently being developed and is intended to support private landowners to manage and expand indigenous ecosystems on their property.
- Local Boards can provide funding for grants that can support smaller environment restoration groups.

Advocacy by Mayor Phil Goff

Auckland Mayor Phil Goff has advocated for greater tree protection through the current RMA reform process on two earlier occasions (letters to Minister Parker on 9 April 2019 (Attachment B) and 20 July 2020 (Attachment C)).

6. Any existing relevant legislation, policy or practice

There is currently no legislation or policy that offers the level of protection for trees on private land that this remit proposal seeks. The RMA prevents the use of District plan rules to protect trees unless they are described and the allotment is specifically identified by street address and/or legal description. While the restrictions don't apply to regional rules, these can only be used for s30 functions, which do not mandate general tree protection.

Provisions in the AUP (Regional Policy Statement B4.5. Notable Trees and D13.2 Notable Trees Overlay objectives) protect notable trees from inappropriate subdivision, use and development but do not guarantee their retention because the ability still exists to apply for consented removal and many other factors are considered as part of the application. Factors such as, attributes of the tree/s including identified values, the ability for development to accommodate the tree/s, alternative methods for retention and potential loss of values. Council currently considers consent applications for notable tree removals on a case by case basis in accordance with the provisions set out in the AUP.

7. Outcome of any prior discussion at a Zone or Sector meeting

Auckland Zone has formally resolved tree protection as a key priority and adopted to address this by way of a remit to be submitted to LGNZ for the 2021 AGM.

8. Suggested course of action

Repeal sections 76(4A) and 76(4B) of the RMA which were inserted by the Resource Management (Simplifying and Streamlining) Amendment Act 2009. Carry these changes through the RMA reforms and into new legislation.

Auckland Unitary Plan's Notable Tree Schedule (Schedule 10)



Memorandum

7 August 2020

To: Planning Committee, Environment and Climate Change Committee and Local Board Chairs

Subject: The current costs of adding trees to the Auckland Unitary Plan's Notable Tree Schedule (Schedule 10)

From: Teuila Young, Planner, Auckland-wide Unit, Plans & Places

Contact information: teuila.young@aucklandcouncil.govt.nz

Purpose

This purpose of this memo is to provide you information about the approximate current costs, timeframes and processes associated with adding trees to the Auckland Unitary Plan, Schedule 10 Notable Trees Schedule. It identifies possible efficiencies to reduce these costs. It also advises on interim changes to our website.

Summary

The costs to council of adding trees into the schedule of notable trees have been calculated at \$1484.00 per tree. This reflects the process steps and expertise required to support the plan change process necessary to enable the addition to trees into Schedule 10 of the Auckland Unitary Plan.

Possible methods for achieving cost efficiencies to this process have been considered however the costs will still remain largely unchanged.

Officers remain on track to report on this matter to Committee later this year so that consideration can be given to the timing of a full review of Schedule 10 in the context of resource constraints and priorities.

The council website will be updated to alert people to the fact that the nomination of a tree for protection does not automatically protect a tree and that a plan change is needed for this to occur. The website will then be updated again later this year once direction is received from Committee on the timing of a plan change to review Schedule 10.

Context

1. At the Environment and Climate Change Committee meeting on 21 July 2020, you requested a memo about the estimated \$1500 cost for each tree included within the Auckland Unitary Plan (AUP).
2. Prior to the creation of the AUP, each legacy council had its own schedule which listed heritage/notable trees or groups of trees. These were evaluated using different sets of criteria (depending on the council involved) at the time that they were included in the legacy district plans. As part of the development of the Proposed Auckland Unitary Plan (PAUP) these schedules were consolidated. 519 submissions were received seeking additions to the PAUP schedule and 60 submissions were received seeking deletions.
3. The decisions council made in response to the recommendations from the Independent Hearings Panel (IHP) added several trees to Schedule 10 and several trees were removed.
4. The PAUP submissions seeking additions to Schedule 10 remain in a database along with new nominations received since 2016 for trees to be added to the schedule. As at 5 August 2020, a

further 68 unsolicited nominations for trees to be added to the Schedule have been received. These are proposed to be considered as part of a future plan change process for additions to Schedule 10.

5. Since the AUP became operative, Schedule 10 has been amended once via plan change 29 (PC29). This only included correcting errors such as mapping (e.g. tree identification is mapped at the wrong location), incorrect information in the Schedule (e.g. address and/or legal description is incorrect, the number of trees is missing/incorrect, the botanical and/or common names are incorrect or do not align), or items missing from the schedule or included in error. This process is currently ongoing and the hearing of submissions on PC29 is scheduled for 18 September 2020.
6. At the time PC29 was approved for notification by the Planning Committee, it was resolved that nominations for additions and/or removal of trees do not form part of the plan change process.
7. Subsequently the Environment and Climate Change Committee noted (resolution ECC/2020/30) that staff will consider the timing of a full review of Schedule 10 – Notable Trees in the context of resourcing constraints and priorities and report back to Planning Committee.

Process, timeframes and cost

8. It is difficult to quantify the cost of scheduling trees because there are many contributing factors. For the purpose of this exercise it has been necessary to make some key assumptions. These are outlined below:
 - The scope of any potential future plan change is limited to additions of new trees to Schedule 10 and excludes the re-evaluation of existing listings.
 - There are no duplications in the 587 nominations.
 - The 587 nominations are all individual trees and there are no groups of trees proposed to be evaluated or scheduled through this process as this would increase the timeframes and resources associate with a future plan change. All 587 nominations would be evaluated and proceed through a plan change.
 - Council would not be publicly calling for new nominations as part of this process, as timeframes and resources would correspondingly increase.
 - Required Plans & Places staff and specialists have available capacity to complete this work. This assumption relies on the ability to recruit to the Heritage Arborist vacancy given Emergency Budget constraints.
 - That arboricultural consultants can be used to backfill the Heritage Arborist roles so they can undertake the review and assist where required.
 - Calculations are limited to the 587 items¹ for consideration. If many new nominations for both additions and removals were considered as part of this process, timeframes and resources would correspondingly increase.
 - Staff costs are taken from the mid-point of each role's salary band.
9. Based on the information provided in Attachment A, coupled with the assumptions applied to the data, the current cost to schedule 587 trees is \$871,000 (including ongoing Schedule maintenance costs for up to 12 months – this includes input on consents, monitoring conditions, attendance at notified hearings). It is estimated that from start (Step 2) to finish (Step 6), the process of adding trees to Schedule 10 and making the plan change operative would take between 34 to 42 months. Based on this information, the estimated average cost of scheduling

¹ 519 additions to the schedule were requested through the PAUP process and 68 nominations for additions have been received since 2016

a single tree is currently \$1484.00. It is important to note, that it would be both cost and time efficient if additions to Schedule 10 occurred by evaluating large batches of tree nominations at once rather than individually and the cost of scheduling “per tree” does not adequately reflect the scale of the process.

10. Tree schedules are highly dynamic and are not as easily maintained as other AUP schedules which are static (e.g. Outstanding Natural Landscapes Overlay Schedule, Outstanding Natural Features Overlay Schedule) meaning that they fall further out of date over time. This is because (given the large number of properties it affects) subdivision, development and consents for removal/alteration as well as emergency works affect the description of listings on the Schedule. Updates will therefore be required, and errors will still be identified from time to time given the number of listings contained in the Schedule. To update Schedule 10 requires a plan change at cost to the ratepayer and the larger the number of items on the Schedule the more complex a maintenance plan change would have to be. These changes cannot be addressed through any other process.
11. If the decision was made to invite submissions on trees that may merit inclusion in the Schedule, this could precipitate a review of the current Schedule 10 listings. This would substantially increase the cost and timeframe required to deliver the plan change (that initially only sought to add trees) significantly. Given that a number of the current scheduled trees would not meet the criteria under the AUP (i.e. weed species or damaged/dead tree) it is also possible that the number of currently scheduled trees would be reduced. New nominations would also not have immediate legal effect (ie no immediate protection) under s.86B of the RMA so those trees would be under threat of removal until a decision on the plan change is publicly notified.
12. Potentially, there are two council grants available to assist with the ongoing maintenance of notable trees on private property, the individual Local Board grants and Regional Historic Heritage grant. However, the funding criteria for the Local Board grants is at their discretion and may not include scheduled trees as a priority for funding. Funding is available for notable trees under the Regional Historic Heritage grant however, it is important to note that this grant has been oversubscribed.

Possible efficiencies

13. Possible methods for achieving cost and time efficiencies for future additions to Schedule 10 have been considered below:
 - Approaching other areas of council for assistance, such as Consents and Community Facilities arborists to reduce the external cost for consultants. However, consultants would still be required if the scope of the plan change extended beyond the addition of 587 existing nominations. The process would require the timeframes outlined in paragraph 9 above.
 - Creating a system prioritising the 587 nominations by only considering against a single criterion (as per the evaluation form found on page 11 of Attachment B). For example, limiting evaluation out in the field to only those which have heritage significance as indicated by the nominator. In terms of heritage specialist time these could be evaluated in conjunction with other work being done on site. This approach could possibly create cost and time savings in the evaluation of nominations stage when addressing heritage significance. However, it would not affect the cost of the remaining steps in the schedule 1 process. Also, assessing trees against a single criterion would potentially not provide a robust assessment and other criteria would need to be assessed moving forward and thus the cost and time would be multiplied for each assessment criterion.
 - Undertaking the work in tranches as opposed to one large plan change. This would still require a process which may be inefficient as it would require several plan changes over the course of several years and may likely be perceived as unfair in terms of which trees are scheduled first when compared with other equally meritorious trees. The cost and time of the process would be multiplied by the number of plan changes required to

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schedule the nominated trees. Piecemeal reviews may also not provide an opportunity to be more strategic in addressing the unequal distribution of tree cover across the region.

- General tree protection. Currently the schedule protects an extremely small number of trees in comparison to what general tree protection could. RMA reform Panel recommendations are silent on the matter of general tree protection (and s76(4A)) and whether the new system should specifically rule out the use of the general tree protection district rule.

14. The costs per tree of scheduling will remain high even after the consideration of possible efficiencies. As mentioned in paragraph 7, on 21 July 2020 the Environment and Climate Change Committee resolved that a report on the full review of the Notable Trees Schedule 10 be provided to the Planning Committee. It is likely that that report will be taken to either the October or November 2020 Planning Committee meetings. That report will provide a fuller consideration of all alternatives alongside a full review of Schedule 10.

Current nomination webpage

15. Currently the Auckland Council website contains nomination information required to nominate a tree or group of trees to be scheduled. It does not outline the timeframe it takes to complete this process. It also does not state that trees or groups of trees are not given automatic protection when they are nominated, though this information is provided in the guidance document (Attachment B). Please see Attachment C for the current wording on the website. A interim amendment is to be made to this wording to alert people to the delays between their nominations being received and a change being made to the AUP (including the Hauraki Gulf Islands District Plan). Longer term, once the Planning Committee resolve a way forward in relation to the notable trees schedule, further changes to the text can be made to the website.

16. The following wording is proposed to be inserted on the webpage:

Please note that the nomination process does not afford automatic protection. Any new trees or groups of trees nominated for inclusion to the schedule need to go through a full process under the Resource Management Act via a Plan Change, and this is quite a significant process which involves professional assessment and a public submission process. Any nominated tree or groups of trees need to meet specific criteria for protection, which include features such as botanical significance, amenity or historic value. There is currently no plan to initiate a plan change that enables the public to nominate new trees for inclusion on the Schedule, although there may a process like that in the future. Completing the nomination form would be a positive course of action for you to take so that we have the details of the tree (or group of trees) on file should a plan change to add trees to the Schedule of Notable Trees be commenced.

Next steps

17. A report on a full review of Schedule 10 Notable Trees Schedule will be reported back to Planning Committee in either October or November.
18. The Notable Trees web page will be updated to include wording which reflects the delay between nominations of trees or groups of trees and scheduling. This change will be made by the end of this month.

Attachments

Attachment A: Process, timeframes and cost of adding trees to Schedule 10 spreadsheet

Attachment B: Guidance for Nominating a Notable Tree for Evaluation

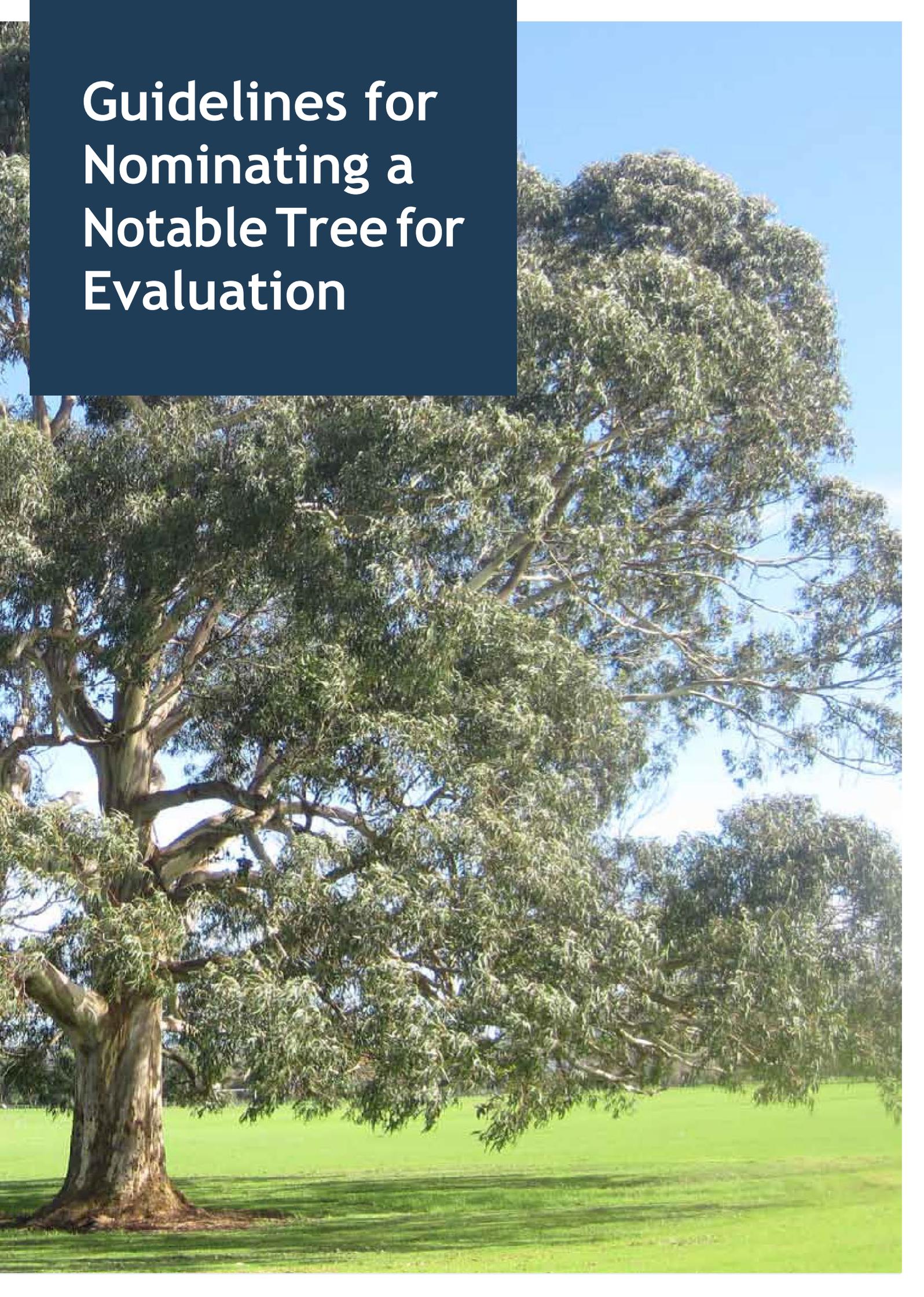
Attachment C: Current Auckland Council webpage regarding Notable Tree nominations

Attachment D: Resource consent fee schedule associated with Notable Trees

Process, timeframes and cost of adding 587 trees to Schedule 10 Notable Trees

Step	Process	Timeframe Estimate +/- 2 months	Explanation	Staff resource required	Estimated cost +/- \$1000
1	Nomination	NA - administrative task which requires minimal staff time	Currently a nomination can be made by completing the nomination form and emailing it to the Plans and Places Heritage Information team.	NA - administrative task which requires minimal staff time	NA
2	Evaluation of trees held in the nomination database	6 - 10 months	This calculation is based on 587 existing tree nominations. It is estimated that for a single tree it would take 30-45 minutes onsite evaluation. A group of trees could potentially take longer than 1 hour. Additionally, travelling in between sites will add time. For the purpose of this exercise travel time is being calculated at 20mins between sites. There is also a significant amount of preparation work that needs to take place before onsite evaluations can be conducted. This preparation work involves notifying affected landowners and residents, preparing site sheets, desktop analysis of any existing information available on file.	Senior planner (0.5 FTE) Planner (0.5 FTE) 2 x Arborists (1.0 FTE)	\$203,000
3	Preparation of a plan change Section 32 evaluation report Scope Reporting	3-4 months		Senior planner (0.8 FTE) Planner (0.5 FTE) Arborist (0.2 FTE)	\$56,000
4	Notification Submissions & further submissions Evaluation of submissions and any supporting information provided by submitters in relation to nominated trees	16-18 months	This cost of notification letters for 587 property owners and 587 residents at \$1.30 per letter comes to a total cost of \$1526. This cost is included in the total. Evaluation of submissions on plan changes of this nature require significant amount of time as they often involves site visits and in-depth desktop analysis in order to determine the accuracy of information provided in the submission.	Senior planner (0.8 FTE) Planner (0.5 FTE) 2 x arborists (0.5 FTE)	\$327,000
5	Mediation hearing, reporting, public notification of decisions etc.	3-4 months		Senior planner (0.8 FTE) Planner (0.5 FTE) 2 x arborists (0.5 FTE)	\$78,000
6	Appeal period (appeals to Environment court, approval of plan change, make plan change operative or operative in part)	6 months +		Senior planner (0.8 FTE) Planner (0.5 FTE) 2 x arborists (0.5 FTE)	\$115,000
7	Maintenance and delivery of a larger schedule (heritage inventory team, arborist input, not just consents but also monitoring conditions when arborist is required on site to supervise, attendance at notified hearings etc.)	Ongoing	Calculations are based on 12 months of maintenance and delivery.	Arborist (0.8 FTE) Planner (0.1 FTE)	\$92,000
Total process cost					\$871,000
Cost per tree					\$1,484.00

Guidelines for Nominating a Notable Tree for Evaluation



Nomination Guidelines

These guidelines outline the requirements for nominating a notable tree for evaluation by Auckland Council for inclusion on the region's Notable Tree Schedule. This document will assist you in completing and submitting the nomination form.

Nominating a tree

Any person or organisation may nominate a tree or group of trees for evaluation by completing and submitting the nomination form.

Before you submit a nomination, please read these guidelines to check whether nomination is appropriate, and to ensure that you complete the form correctly. You should only nominate a tree or group of trees if you consider it has significant value and would be a worthy addition to Auckland's Notable Tree Schedule.

Purpose of evaluation

The purpose of this evaluation is to identify notable trees for inclusion in Auckland's Notable Tree Schedule, or for other appropriate management to protect the tree such as a legal covenant.

Nomination of a tree or group of trees does not automatically guarantee that it will be evaluated or considered for scheduling. Priority will be given to nominations for trees on the nominator's property or on public land (open space, reserves or streets) and to those that are not already scheduled as part of a Significant Ecological Area. Priority will also be given to nominations that clearly identify the values of the tree and are supported by relevant background information. Therefore you are encouraged to make a persuasive case for the significance of the tree.

What is a Notable Tree?

Practically all trees play important economic, environmental and social roles in any district of New Zealand. However, some trees are often thought of as being of greater value than others. That is, there are some specimen trees, or groups of trees, that stand out as being notable, significant or distinguished. It is those trees that, for various reasons, are selected by territorial local authorities, throughout New Zealand, for inclusion on a notable tree schedule in a district plan. Through this mechanism they gain greater legal protection.

Notable trees are generally those that a community or nation regard as being of special importance because they commemorate important events in a nation's history, are exceptional or unique examples of a species, are critical to the survival of other species or are of such age, stature, character and visibility that they are regarded as the best in the district.

What is the Notable Tree Schedule?

Auckland's Notable Tree Schedule is a list of significant trees or groups of trees in the Auckland region. Inclusion of a tree or group of trees in the Schedule means that:

- It has been officially recognised by the Auckland Council as being a Notable Tree
- It is protected by provisions in district or unitary plans to ensure it is not damaged or destroyed
- It may be eligible for grants and other incentives.

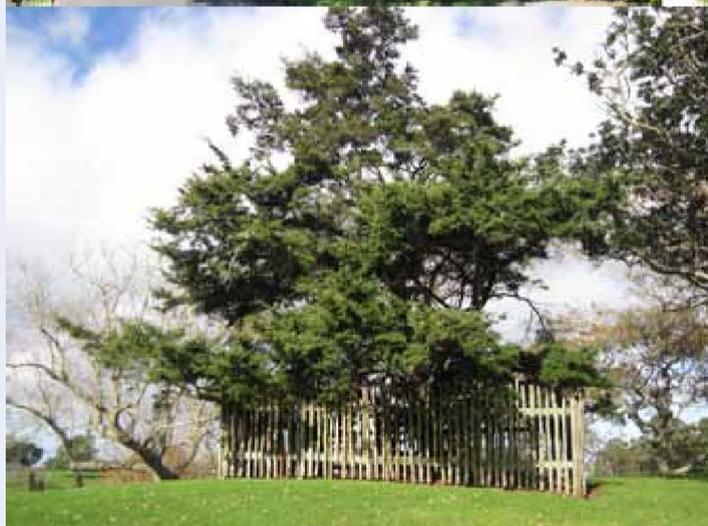
Criteria for scheduling Notable Trees

Auckland Council has proposed criteria for evaluating the importance of trees and the level of significance required to be considered for inclusion in the Notable Tree Schedule. There are three types of criteria: Special factors (stand alone), Negative factors and Tree Specific factors.

The special factor criteria are stand alone which means that if a tree or group of trees meets any one criterion then it is deemed notable. The tree-specific criteria require a cumulative assessment. That means, for a tree or group of trees to be notable, it must have a cumulative score of 20 or more out of 40 using the scoring systems described in Appendix 1.

Both the special factor and tree-specific criteria are used in combination to determine whether a tree or group of trees is notable. A tree will be notable if it meets only one of the special factors or the score threshold for tree-specific criteria.

In addition, the assessment against the Special factor and tree-specific criteria is then balanced by taking into account the potential negative effects of the tree. In situations where negative effects occur then these must be offset against the benefits of protecting a notable tree. This methodology does not provide a definitive way to make this decision but it relies on the expertise of trained arborists assessing the risk of the negative effects occurring and the overall significance of the tree. The critical part of this assessment is determining whether the hazard or negative effects are unmanageable. Most hazards and all nuisance effects can be managed but in instances where they are unmanageable a tree will not be scheduled as notable. Pest plants listed in the Regional Pest Management Strategy or Plan will not be scheduled.



Special Factors (stand alone)

A. Heritage

- Is associated with or commemorates an historic event (including Maori history or legend)
- Has strong public associations or has an historic association with a well known historic or notable figure
- Is strongly associated with a local historic feature and now forms a significant part of that feature

B. Scientific

- Is the only example of the species in Auckland or the largest known specimen of the species in Auckland (including height and lateral spread) (only applies to individual trees)
- Is a significant example of a species rare in Auckland or a native species that is nationally or regionally threatened (as assessed by the Department of Conservation (DOC) or on the regional threatened species list)
- Has outstanding value because of its scientific significance

C. Ecosystem service

- Provides critical habitat for a threatened native species population e.g., bats, chevron skinks, kiwi, yellow mistletoe etc

D. Cultural

- Demonstrates a custom, way of life or process that was common but is now rare, is in danger of being lost or has been lost
- Has an important role in defining the communal identity and distinctiveness of the community through having special symbolic, spiritual, commemorative, traditional or other cultural value or represents important aspects of collective memory, identity or remembrance, the meanings of which should not be forgotten
- Is a landmark, or marker that the community identifies with

E. Intrinsic

- Is intrinsically notable because of a combination of factors including the size, age, vigour and vitality, stature and form or visual contribution of the tree or group of trees

Negative Effects

F. Negative effects

- Are there any matters that may weigh against the tree's long term protection at this location?
- Does the tree present negative impacts upon human health and / or property?
- Are these negative effects manageable through arboricultural or property management means?
- Is the tree species listed in the Regional Pest Management Strategy as a Total Control or Containment Plant or listed under the Biosecurity Act 1993 as an Unwanted Organism?

Tree-specific factors (see below for scoring)

G. Age and health

- Is notable because of its age (e.g., the oldest of its species in Auckland) and there is something about the vigour and vitality of the tree or group of trees which makes it notable given other factors (such as its age)

H. Character and form

- Is an exceptional example of the species in character and/or form (i.e., text book shape or has a particular relationship with its environment) or attributes that makes it unique

I. Size

- It is an exceptional size for the species in this location (including height, girth or lateral spread)

J. Visual contribution

- It makes a significant contribution to the visual character of an area or to the vista from elsewhere in Auckland



Thresholds

When applying tree-specific factors to groups of trees an average assessment for all trees in the group should be used. At least one individual in a group must be scheduled independently as notable and all trees in the group must be physically close to each other or form a collective or functional unit through meeting at least one of the following criteria: 1. Canopies touch; 2. Canopies overlap; 3. Canopies are not further than 5 metres apart.

To be considered eligible for inclusion in Auckland's Notable Tree Schedule, a tree or group of trees must meet at least one of the special factor criteria or achieve a score of 20 or more for tree-specific criteria.

Other tree specific factors are also taken into account in the decision to recommend a tree for scheduling. Sometimes scheduling is not the most appropriate way of protecting an important tree. For example, it may be part of a significant indigenous plant community and it would be more appropriate to schedule as a Significant Ecological Area (SEA) or it may already be within one of these SEAs and therefore a lower priority for evaluation. The final decision over whether to schedule a notable tree or group of trees is made by the Council after assessing the information obtained from this process.

What trees can be nominated?

Any tree or groups of trees may be nominated including those in towns, streetscapes and settlements, gardens, trees and plantings or they may be naturally occurring trees in parks, reserves or covenants.

Frivolous or vexatious nominations will not be accepted including nominations for:

- Any tree or groups of trees that has been planted and is less than 20 years old, other than in exceptional circumstances
- Moveable or portable trees such as those in planter boxes.
- Any tree that cannot be accurately located or identified.

Priority will be given to trees nominated for inclusion in Auckland's schedule of Notable Trees that occur on the property of the nominee or in a public reserve. Detailed nominations supported with good information will have an increased chance of being processed quickly for acceptance into the schedule and will be peer reviewed. Nominations providing limited information, or those for trees on another person's private property will be processed as and when resources are made available.



Completing the nomination form (see Appendix 1)

Before completing the form

Before you complete the nomination form (see Appendix 1) you should check your existing Notable Tree Schedule to ensure that the tree or group of trees is not already scheduled.

Completing the form

You are encouraged to complete and submit the nomination form in electronic format. You can download an electronic copy of the form from the Auckland Council website (<http://www.aucklandcouncil.govt.nz>)

Section 1 (Contact details)

We need to be able to acknowledge receipt of your nomination, verify information if needed, and keep you informed. We cannot accept anonymous nominations.

Section 2 (Address)

We need to know where the tree is. If it doesn't have a street address, you can provide the legal description or grid reference (using NZ Transverse Mercator coordinates). You can access these through the council's GIS viewer: <http://maps.aucklandcouncil.govt.nz/aucklandcouncilviewer/>

Legal description: use the 'identify' button on the toolbars on the right of the screen Grid reference: go to Tools/capture map coordinates. Print out and attach an aerial photo of the site with the tree clearly circled. If there are multiple trees please show where each tree is located.

Section 3 (Owner/occupier)

Complete this section if you have access to this information.

Section 4 (Description)

You should include a description of the tree and its location. For example provide a description of the estimated height, age, species and context for the tree.

Section 5 (Threats)

It is useful to identify known threats to the tree, because this will assist in prioritising nominations. For example, pressure from development, risk of being removed to create views etc.

Sections 6-8 (Treespecificandspecialfactorsand negative effects)

You should evaluate the tree or group of trees against each of the criteria. This will be the primary means by which we will evaluate a tree.

Section 9 (Conclusions)

Summarise your conclusions about the tree or group of trees here.

Further assistance

If you need assistance with the form, please contact the Council's Heritage team by email at heritage@aucklandcouncil.govt.nz

Please complete the form in as much detail as possible.

Frequently Asked Questions

Can I provide information in confidence?

Generally not. Evaluation of Auckland's heritage is a public process. All members of the public, including the owner of a tree, are entitled to access all information held by the Council on a property. Councils are only required to restrict access to sensitive information about places of significance to tangata whenua as this is a statutory requirement under the Resource Management Act 1991. All other information relating to a property is public information, and is therefore available to members of the public upon request. If you have concerns about providing information that is, or may be sensitive or subject to copyright, you should discuss this with staff in the Council's Heritage Unit before providing the information.

What about my personal details?

The Council has a responsibility to comply with the Privacy Act 1993 and the Local Government Official Information and Meetings Act 1987. All information provided to, and held by Council as public records, is public information and is subject to disclosure upon request unless there are reasons why it should not be disclosed. If you have concerns, you should refer to the relevant Acts, and seek independent advice.

What if I don't have the time or knowledge to provide all the information you require?

The more supporting evidence you can provide the better. Nominations that lack sufficient information may be assigned a low priority for evaluation. You could approach your Local Board, botanical society or other community group to assist with the nomination or to make it on your behalf.

Why can't the Council evaluate all nominated trees?

The process of evaluating trees requires specialised personnel and resources. As well as public nominations, the council identifies potentially significant trees through its own work. All nominations receive an initial appraisal. Those that are unlikely to meet the significance thresholds or lack sufficient information will be assigned a low priority or may not proceed. In some cases nominated trees have been previously evaluated, so unless new information becomes available they will not be re-evaluated.

What is the best format for sending information to the Council?

Electronic files are preferred. Original photographs or documents should be scanned or copied. If you have large files (over 10MB) send them in parts or convert them to smaller file sizes (e.g. by converting them to PDF files) or copy them onto a CD.

Can I protect my tree even if my tree is not notable?

If you have a tree and you think it is special but is unlikely to be scheduled as notable then there are alternatives to enable its protection such as a private legal covenant.

Notable Tree Nomination Form

This nomination form is to be used for assessing trees or groups of trees. When applying tree-specific factors to groups of trees an average assessment for all trees in the group should be used. At least one individual in a group must be scheduled independently as notable and all trees in the group must be physically close to each other or form a collective or functional unit through meeting at least one of the following criteria: 1. Canopies touch; 2. Canopies overlap; 3. Canopies are not further than 5 metres apart.

Section 1: Your Contact Details

Section 2: Address of the tree

Section 3: Owner/occupier

Section 4: Description

Section 5: Threats to the tree

Section 6: Tree-specific factors (see following page for scoring)

A tree can be scheduled as Notable if it achieves a score of 20 or more

	Score (see explanatory notes)	Comments
Age and health Is notable because of its age (e.g., the oldest of its species in Auckland) and there is something about the vigour and vitality of the tree or group of trees which makes it notable given other factors (such as its age)	<input type="checkbox"/>	
Character and form Is an exceptional example of the species in character and/or form (i.e., text book shape or has a particular relationship with its environment) or attributes that makes it unique	<input type="checkbox"/>	
Size It is an exceptional size for the species in this location (including height, girth or lateral spread)	<input type="checkbox"/>	
Visual contribution It makes a significant contribution to the visual character of an area or to the vista from elsewhere in Auckland	<input type="checkbox"/>	
Section 7: Negative effects Are there any matters that weigh against the tree's long term protection at this location?		
Hazard and negative effects	YES	NO
Does the tree present negative impacts upon human health and / or property?	<input type="checkbox"/>	<input type="checkbox"/>
Are these negative effects manageable through arboricultural or property management means?	<input type="checkbox"/>	<input type="checkbox"/>
Is the tree species listed in the Regional Pest Management Strategy as a Total Control or Containment Plant or listed under the Biosecurity Act 1993 as an Unwanted Organism?	<input type="checkbox"/>	<input type="checkbox"/>

Scoring of tree specific factors

These scoring systems are to be used when evaluating a tree against the tree-specific factors in Section 6 (see page 10).

Age and health

Vigour and vitality	High	3	5	6	8	10
	↑	2	4	6	8	8
		2	4	6	6	7
		2	4	4	5	5
Low	2	2	2	3	3	
	Age in Years	<40	41-60	61-80	81-100	>100

This scoring system should be used when assessing the age and health of a tree. It allows for trees that are old and healthy to score much more highly than trees that are either unhealthy or young. The degree of vigour and vitality for any tree is assessed given the age of the tree. Therefore, a tree that is over 100 years old and showing high vigour and vitality, for a tree that age, will score a 10.

Character or form

Not exceptional	0
Exceptional example locally	5
Exceptional example in Auckland	10

This scoring system should be used when assessing the character or form of a tree. It allows for trees that are exceptional examples at two spatial scales (from local to Auckland-wide) to score more highly than trees that are regarded as normal.

Size

Average size for the species in this location	0
Greater than average size (up to 25% larger)	5
Substantially greater than average size (>25% larger)	10

This scoring system should be used when assessing the size of a tree (including height, girth and lateral spread). It allows for trees that are larger than would be expected (on average) for a particular location to be scored more highly than trees that are at, or close to (or below), their average height.

Visual contribution

In backyard or gully	2	e.g. fewer than 100 people see the tree daily
Local park/community/ beside minor road or feeder road/catchment	5	e.g. between 100 and 5000 people see the tree daily
Main Road/motorway or highly visible landform	10	e.g. more than 5000 people see the tree daily

This scoring system should be used when assessing the visual contribution of a tree. It allows for trees that are seen by more people on a daily basis to score more highly than trees that are rarely seen.

Section 8: Special factors (stand alone)

For a tree to be scheduled or Notable it needs to meet only one of these special factors

YES

NO

Comments

Heritage

Is associated with or commemorates an historic event (including Maori history or legend)

Has strong public associations or has an historic association with a well known historic or notable figure

Is strongly associated with a local historic feature and now forms a significant part of that feature

Scientific

Is the only example of the species in Auckland or the largest known specimen of the species in Auckland (including height and lateral spread) (only applies to individual trees)

Is a significant example of a species rare in Auckland or a native species that is nationally or regionally threatened (as assessed by DOC or on the regional threatened species list)

Has outstanding value because of its scientific significance

Ecosystem service

Provides critical habitat for a threatened native species population e.g., bats, chevron skinks, kiwi, yellow mistletoe etc

Cultural

Demonstrates a custom, way of life or process that was common but is now rare, is in danger of being lost or has been lost

Has an important role in defining the communal identity and distinctiveness of the community through having special symbolic, spiritual, commemorative, traditional or other cultural value or represents important aspects of collective memory, identity or remembrance, the meanings of which should not be forgotten

Is a landmark, or marker that the community identifies with

Intrinsic

Is intrinsically notable because of a combination of factors including the size, age, vigour and vitality, stature and form or visual contribution of the tree or group of trees

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Section 9: Conclusions

Include your final assessment of whether or not the tree is notable and any additional comments. Note that under the Tree-Specific factors, a score of 20 or more is needed before it can be scheduled or Notable.

Guidelines for notable tree evaluation

To find out the criteria for evaluating the importance of trees and their level of significance, see the Guidelines for nominating a notable tree for evaluation document.

You could ask your local board, botanical society or another community group to help you with the nomination, or to make it on your behalf.

@Guidelines for Nominating a Notable Tree for Evaluation

PDF download 1.6 MB

You cannot nominate pest plants listed in the [Regional Pest Management Strategy](#).

How to nominate a notable tree for evaluation

- By email

Read the guidelines document and complete the nomination form contained in it.

Email the completed form to the heritage unit at heritage@aucklandcouncil.govt.nz.

@Guidelines for Nominating a Notable Tree for Evaluation

PDF download 1.6 MB

Fees and charges

Consenting and property information fees and charges

Effective from 1 July 2020



Find out more: phone 09 301 0101
or visit aucklandcouncil.govt.nz

Auckland Council has reviewed fees and charges for the 2020/21 year.

The following notes should be read in conjunction with the schedule of fees and charges.

- All fees and charges are inclusive of GST at the rate of 15%.
- All fees and charges are in effect from 1 July 2020.
- While Council has aimed to provide a complete and accurate schedule of charges, if any errors or omissions are identified, charges will be calculated by reference to the appropriate underlying authority/resolution. Council reserves the right to vary and introduce fees and charges at its discretion.



Building consent fees

Type	Description	Base Fee/ Fixed Fee*	Processing deposit	Inspection deposit	Total
Pre-application meeting	Pre-application: standard	\$311*			\$311
All other building applications	Pre-application: complex	\$311			\$311
	Project value up to \$4,999	\$790*		\$340	\$1,130
	Project value \$5,000-\$19,999		\$1,200	\$680	\$1,880
	Project value \$20,000-\$99,999		\$2,000	\$850	\$2,850
	Project value \$100,000-\$499,999		\$3,200	\$1,530	\$4,730
	Project value \$500,000-\$999,999		\$5,000	\$2,040	\$7,040
Amended plans	Project value \$1,000,000 and over		\$7,200	\$2,550	\$9,750
	Amended building consent applications: project value up to \$19,999		\$400		\$400
	Amended building consent applications: project value \$20,000-\$99,999		\$700		\$700
Code Compliance Certificate (CCC)	Amended building consent applications: project value \$100,000 and over		\$1,200		\$1,200
	Project value up to \$19,999	\$200			\$200
Certificate of Acceptance	Project value \$20,000 and over	\$595			\$595
	Project value up to \$19,999 Note: Prosecution and Infringements may also apply for work undertaken without consent	\$1,200		\$170	\$1,370
Building application	Project value \$20,000 and over Note: Prosecution and Infringements may also apply for work undertaken without consent	\$2,000		\$170	\$2,170
	Building application: national multiple use approval (based on project value \$0-\$499,999)		\$1,309	Based on project value	\$1,309
Building inspections ^a	Building application: national multiple use approval (based on project value \$500,000 and over)		\$2,726	Based on project value	\$2,726
	Building inspection per standard 45 minutes (include factory audits). Additional time charged by the hour			\$170	\$170

Building consent fees

Type	Description	Base Fee/ Fixed Fee*	Processing deposit	Inspection deposit	Total
Building inspections- same day cancellation	Fee for building inspections cancelled after 12pm the day before the inspection booking	\$170*			\$170
Fire engineering briefs (new)	Fire engineering brief meeting, limited to one hour (hourly rates apply thereafter)	\$311			\$311
LINZ registration (Land Information New Zealand)	Where land is subject to natural hazards, or when building is across more than one lot	\$377*			\$377
Solid fuel heating appliances (fee per appliance)	If installed by an approved installer** providing a producer statement	\$280*			\$280
	Wetback (plus one inspection fee payable at time of application)	\$280*		\$170	\$450
	If installed by a person who is not an approved installer** (plus one inspection fee payable at time of application)	\$280*		\$170	\$450
Solar water or heat pump water heating devices (fee per device)	If installed by an approved installer** providing a producer statement	\$295*			\$295
	If installed by a person who is not an approved installer** (plus one inspection fee payable at time of application)	\$295*		\$170	\$465
Injected wall applications	Application for injected wall insulation. If installed by an approved installer** providing a producer statement	\$280*			\$280
	If installed by a person who is not an approved installer** (plus one inspection fee payable at time of application)	\$280*		\$170	\$450
Temporary structures	Application for a temporary structure	\$470			\$470
Exemption	Application for exemption from building consent requirements base charge	\$440			\$440
Minor Plumbing	Minor plumbing with a producer statement where value of work is less than \$5,000	\$295*			\$295
Minor Alteration for structural engineering design	Minor structural engineering design with a producer statement where value of work is less than \$5,000	\$245		\$170	\$415

Building consent fees

Type	Description	Base Fee/ Fixed Fee*	Processing Deposit	Inspection Deposit	Total
Separation	Application to separate a historic building consent that relates to two or more buildings on the same site (per application)	\$548			\$548
Project Information Memorandum (PIM)	Issuing Project Information Memorandum	\$445			\$445
Filing fee	Receiving third party reports or any other information to place on a property file at the owner's request, or Schedule 1 exemption filing	\$253*			\$253
Extensions of time	Extension of time to commence building work under a building consent	\$150*			\$150
Lapsing	Lapsing of building consent	\$167			\$167
Refusing	Refusing of building consent	\$165			\$165
Waiver	Building consent subject to waiver or modification of building code	\$300			\$300
Issuing compliance schedule	Base charge	\$125			\$125
	Additional charge per specified system	\$30			\$30
	Amendment to compliance schedule base charge	\$110			\$110
Building Warrant of Fitness (BWF)	Annual Renewal	\$150			\$150
	Advisory inspection			\$170	\$170
	BWOF Audit	\$124			\$124
Independent Qualified Person (IQP) Register	Registration costs for IQP	\$345*			\$345
	Registration renewal for IQP (3 yearly)	\$195*			\$195
Notice to fix	Issuing notice to fix	\$262*			\$262
Certificate for Public Use (CPU)	Certificate	\$520			\$520
	Extension of time for CPU	\$244			\$244
Issuing consent report	Weekly (annual subscription)	\$1,595*			\$1,595
	Monthly (annual subscription)	\$765*			\$765
	Single request (monthly or weekly report)	\$150*			\$150

Building consent fees

Type	Description	Base Fee/ Fixed Fee*	Processing Deposit	Inspection Deposit	Total
Title Search	Record of Title	\$50*			\$50
Alcohol licensing building and planning certificate	Certificate that proposed use of premises meets requirements of building code and Resource Management Act	\$990			\$990
Construction of vehicle crossings	Vehicle crossing permit (application processing and inspection)	\$340			\$340
Producer statement author register	Registration as a producer statement author	\$345*			\$345
	Renewal of registration (3 yearly)	\$200*			\$200*
Swimming/spa pool compliance inspection	Swimming/spa pool inspection (each)	\$132*			\$132
	Owner sends photo	\$65*			\$65
	Independently Qualified Pool Inspectors (IQPI) record – administration of IQPI records	\$66*			\$66
Industrial cooling tower	Industrial cooling towers registration	\$175*			\$175
	Industrial cooling towers inspection	\$170			\$170
	Industrial cooling towers renewal	\$112*			\$112
Earthquake Prone Buildings	Extension of time to complete seismic work on certain heritage buildings or part of	\$148*			\$148
	Exemption from the requirement to carry out seismic work on the building or part of the building	\$350*			\$350

ⁿ Please refer to notes section for more information.

* All fixed fees non-refundable and no additional charges will be applied.

** Installer must be listed on Auckland Council's producer statement authors register.

- All fees and deposits must be paid at lodgement.
- All base charges are non-refundable and additional charges may apply and will be based on the actual processing and inspection time that occurs for the specific application.
- For deposits, actual costs for each application will be determined based on the processing and/or inspection hours that occur for the application. Additional charges may apply based on the actual processing and inspection time spent on the application.



Resource management and other lodgement fees

Type	Description	Deposit
Pre-application	Resource Consent appraisal	\$505 ⁿ
Land use	Residential land use (infringing development standards)	\$4,000
	Non-residential	\$4,500
	Exemptions and approvals under the Auckland Council Signage Bylaw	\$1,490*
	Waiver of outline plan	\$500
	Tree works (excludes pruning or to undertake works within the protected root zone of notable (scheduled) trees, which does not incur a deposit or charge)	\$600*
Subdivision	Subdivision (with the exception of those below)	\$4,000
	Cross-lease; unit title; boundary adjustment	\$2,000
	Right of way and other non-resource consent matters relating to subdivisions e.g. cancellation of easements	\$1,100
Combination	Multiple/bundle applications for any combination of two or more: land use, subdivision or regional consent	\$9,500
Regional	Coastal structures, activities and occupation	\$7,000
	Discharge of stormwater, domestic wastewater or other contaminants	
	Earthworks and sediment	
	Water take, use and diversion	
	Works in, on, under or over the bed of lakes, rivers and streams	
	Transfer of coastal, water or discharge permit to another site	
	Contaminated sites; landfills; discharge of contaminants to air	
Other	Variation or cancellation under RMA s127 or s221, review of conditions	\$5,000
	Certificate for completion; certificate of compliance; existing use; outline plan; extension of lapse date	\$1,500
	Drill or alter a bore	\$600
	Deemed Permitted Boundary Activity; Forestry Permitted Activity	\$500
	Permitted Activity review - review of any proposal or query to determine if it is a permitted activity	\$250
	Consent transfer or consent surrender	\$229*
	s357 Objection hearing deposit	\$1,500

Resource management and other lodgement fees

Type	Description	Deposit
Notified	Fully notified	\$20,000
	Limited notified	\$10,000
	Hearing (where complex a higher deposit will be required)	\$3,000
	Tree works (excludes pruning or to undertake works within the protected root zone of notable (scheduled) trees, which does not incur a deposit or charge)	\$1,000*
Monitoring	Dairy Farm monitoring inspection deposit. Actual charges are calculated on the inspection time and hourly rate(s).	\$170
	All other monitoring activity: base fee applied on application approval	\$170**
Private plan change	Simple projects	\$10,000
	Complex projects	\$30,000
Notice of requirement	Pre-application appraisal	\$500 ⁿ
	Uplift an existing notice of requirement	\$1,000
	Minor alteration to existing notice of requirement	\$5,000
	Simple new notice or alteration	\$10,000
	Complex new notice or alteration	\$30,000
Consent report	Weekly (annual subscription)	\$1,595*
	Monthly (annual subscription)	\$765*
	Single request (monthly or weekly report)	\$150*

ⁿ Please refer to notes section for more information.

* Fixed Fees are non-refundable, and no additional charges will be applied.

** Compliance monitoring – a non-refundable base fee will be charged for resource consent monitoring inspections. Additional work over and above the base fee will be charged per hour.

- All fees and deposits must be paid at lodgement.
- For deposits, actual costs for each application will be determined based on the processing and/or inspection hours that occur for the application. Additional charges may apply based on the actual processing and inspection time spent on the application.



Regulatory Engineering lodgement deposits

Consents may require further charges that exceed the initial lodgement deposit**

Type	Description	Deposit
Engineering	Major engineering approval for new public infrastructure assets and enabling works; Section 181 and 460 LGA applications requiring access to adjoining land	\$2,500
	Minor engineering works – common access ways, new stormwater connections and activities over public stormwater pipes	\$600

- All fees and deposits must be paid at lodgement.
- For deposits, actual costs for each application will be determined based on the processing and/or inspection hours that occur for the application. Additional charges may apply based on the actual processing and inspection time spent on the application.

Hourly ratesⁿ

Category	Description	Rates
Technical Level 3	All areas – Manager, Project lead, Legal services	\$206.40
Technical Level 2	Building – Residential 2, 3 and all Commercial, Planning, Engineering, Monitoring, other – Senior, Intermediate, Principal, Team leader	\$197.40
Technical Level 1	Planning, Subdivision, Urban design, Compliance, Monitoring, Investigation, Environmental health, Licensing, Building – Residential 1, other	\$169.80
Administration	Administration (all areas)	\$111

Note:

1. The particular technical hourly rate level is determined by staff competency levels.
2. Position titles vary across Auckland Council.
3. Where the cost of the external resource involved does not exceed the Auckland Council staff rate, external resource(s) will be charged at the senior/intermediate rate.
4. Where the cost of the external resource involved exceed the Auckland Council rates, it will be charged at cost.
5. External resources may be engaged to address either expertise or capacity that is not available internally.
6. For guidance on the Building Consent definitions for Residential and Commercial please refer to the following link: [Residential and Commercial Consent](#)

Notes	
Topic	Note
Accreditation levy	An accreditation levy is payable on all building consents to cover the council's costs of meeting the standards and criteria required under the Building (Accreditation of Building Consent Authorities) Regulations 2006. The levy is 50 cents per \$1,000 value of works.
Base Fee	A base fee is the minimum fee which will be charged for an application/service. A base fee is: <ul style="list-style-type: none"> • non-refundable • additional charges may apply and will be based on the actual processing and inspection time that occurs for the specific application
Building inspection	Standard inspection fee includes charges for: Preparation, system updating, travel time, review of associated documents, minor variation assessments, inspections waived, or inspections carried out using Artisan App and any building consent refusal inspection. If an inspection has taken longer than 45 minutes, additional charges apply.
Building research levy	The Building Research Levy Act 1969 requires the council to collect a levy of \$1 per \$1,000 value (or part thereof) of building work valued over \$20,000. GST does not apply to this levy.
Contaminated land site enquiries	Information relevant to the potential or actual contamination of a given property is collated and presented in a response letter, which includes records of pollution incidents, environmental investigations, selected consents, and corresponding files. The fee varies, depending on the time spent on collating the information. The fee is charged upon the completion of a response letter to the party making the enquiry.
Compliance monitoring inspections	A non-refundable base fee will be charged for resource consent monitoring inspections. Additional work over and above the base fee will be charged per hour.
Deposits	<ul style="list-style-type: none"> • The processing deposit and the inspection deposit are payable when the application/service request is lodged. The deposit is an upfront payment for the processing and inspection time that will occur. • Actual costs will be determined based on the processing and inspection hours that the Council spends. The original deposit will be credited against the actual charges to arrive at a refund or additional fees to pay. • Interim invoices may be also issued through the life of the application. • For complex and significant applications (including hearing deposits) if specialist input is needed or the applicant has significant outstanding fees, the council may require a higher deposit payment before proceeding. This will be discussed with the applicant in advance.
Fee changes	Fees and charges may change. Please check our website aucklandcouncil.govt.nz or your nearest service centre for up to date information.
Financial and development contributions	Financial and/or development contributions may be payable in addition to the consent processing charges. Please refer to the development or financial contributions policy and relevant district plan for your development.
Fixed Fee	A fixed fee is the amount charged for an application/service. A fixed fee is: <ul style="list-style-type: none"> • non-refundable • no additional charges will be applied

Notes	
Topic	Note
Hearings	The hearing deposit fee is payable prior to the hearing proceeding. Any actual costs of the hearing that exceed the deposit fee will be charged as an additional charge, e.g. costs arising from the use of a specialist consultant, independent hearing commissioner(s).
Hourly rates	The hourly rates displayed in the hourly rates table above apply to all services including private plan changes and notices of requirement. Where the cost of the external resource involved does not exceed the Auckland Council rates, external resource will be charged at Senior/ Intermediate rates. Where the cost of the external resource involved exceed the Auckland Council rates, it will be charged at cost. External resources may be engaged to address either expertise or capacity that is not available internally.
Ministry of Business Innovation & Employment (MBIE) Levy	The Building Act 2004 requires the council to collect a levy of \$1.75 per \$1,000 value (or part thereof) of building work valued over \$20,444.
Other services	Other services will be charged at cost. Where Auckland Council committee members are engaged, fair and reasonable costs will be recovered.
Private plan change pre-application appraisal	The initial pre-application meeting will be free of charge. A deposit is required to cover all subsequent pre-application meetings. Planning and other specialists will be charged per hour as required.
Resource consent pre-application appraisal	The initial pre-application appraisal will involve one or two planning and/or development engineering staff. Other specialists will be included as required. Where the actual costs exceed the deposit paid, the additional costs (including charges by external specialists) will be invoiced.
Value of work	The value of building work will be based on the New Zealand Building Economist set costs for residential construction and Rawlinsons New Zealand Construction Handbook set costs for commercial construction. Council staff will be able to assist with this.



Land and property information (including GST)		
Category	Service	Fee
LIM reports – residential and non residential	Standard service (10 working days)	\$307
	Urgent service – where service is available (three working days)	\$415
LIM reports – additional copies	Copy of LIM at the time of purchase of original LIM	\$13
Property information	Property file online: standard (10 working days)*	\$64
	Property file online: urgent (three working days)*	\$96
	Hard copy property file viewing (where service is available)	\$33
	Electronic property file viewing (where service is available)	\$23
Maps, reports and certificates	Building consent status report per property	\$13
	Site remediation report	\$13
	Soil reports	\$13
	Private drainage plan	\$13
	Valuations certified copy	\$13
	Building inspection report	\$13
	Site consent summary	\$13
	Copy of Code Compliance Certificate (CCC)	\$13
	Copy of Building Warrant of Fitness (BWOF)	\$13
	Combined public drainage and contour map	\$56
	GIS maps (including aerial maps): A4	\$10
	GIS maps (including aerial maps): A3	\$13
	District plan: zoning/designation maps	\$13
Photocopies	Black and white paper sizes A0, A1, A2, A3 & A4: Add \$0.50 extra for colour copy	\$1.50
Courier charges	Courier charges will be charged at cost	

* Working days (Monday to Friday).

** Working hours (8.30am to 5pm).

Note:

A0/A1/A2 size printing/photocopying may not be available at all service centres.

July 2020. v11.

Find out more: phone 09 301 0101
or visit aucklandcouncil.govt.nz

Letter to Hon David Parker

9 April 2019

Hon David Parker
Minister for the Environment

By email: D.Parker@ministers.govt.nz

Tēnā koe David

Thank you for your letter dated 20 December 2018 in which you seek information on the current state of urban trees in Auckland in order to inform stage two of the Government's reform of the resource management system.

Like you, I have received correspondence raising concerns about urban tree loss in Auckland and about the protection of trees under the Resource Management Act 1991 (RMA). I welcome the opportunity to provide you with information about urban trees in Auckland to inform your decision making in this area.

Assessments of urban trees in Auckland

Auckland Council carried out a region wide assessment of the urban forest canopy cover (defined as all vegetation three meters or greater in height) using LiDAR (Light Detection and Ranging) data collected in 2013. To date, this is the only assessment that provides information on the state of Auckland's urban forest canopy cover at a regional scale. According to the assessment, Auckland has 18 per cent urban forest canopy cover, distributed unequally throughout the city, with lower levels of canopy cover in southern suburbs. The majority of Auckland's urban forest is located on private land and only 6 per cent of the urban forest is over 20 metres in height. *Appendix 1 provides a summary of the key findings.*

In 2016/2017, new LiDAR data was collected by Auckland Council. Work is currently underway to verify, process and analyse this data to determine the current state of Auckland's urban forest throughout the region and assess changes between 2013 and 2016/2017. While the council does not yet have the results region wide, it does have a preliminary assessment of the data sub-regionally.

One of the two recent reports referred to in your letter analysed the changes in canopy cover between 2013 and 2016 in the Auckland suburbs of Mellons Bay, Howick, Māngere Bridge, Māngere East, Flat Bush and East Tamaki Heights. Preliminary results showed there was an overall one per cent net increase in canopy cover across these suburbs, yet there was also noteworthy change: over the timeframe there were significant losses of urban canopy cover in each suburb, but that in all but one suburb (East Tamaki Heights) these losses were counter-balanced by new growth. *Appendix 2 provides a more detailed summary of this report.*

In your letter, you also refer to a report showing a significant loss of canopy cover. Auckland Council published a report in September 2018 assessing urban trees in the Waitemātā Local Board area over the 10 year period from 2006 to 2016. Unlike the suburb study, which used LiDAR, this study used aerial photographs and reported on tree loss but not tree growth (which was evident over the timeframe). Results showed a total loss of 61.23 ha of tree canopy in the Waitemātā Local Board area over the 10 year period. The loss was made up of 12,879 different detected tree removal 'events'; meaning a minimum of 12,879 trees were cleared. *Appendix 3 provides more details.*

Impact of RMA changes made by the previous government

The region wide impacts on urban tree cover resulting from changes to the RMA made by the previous government are not yet fully understood. However, we do know that following the lifting of blanket tree

protection rules, Auckland Council has fewer controls over urban trees on private properties, leaving them at risk of felling.

The study of tree loss in the Waitematā local board area over the period 2006-2016 showed that tree loss was dominated by tree loss on private land, making up 65% of total reported canopy loss, and that 75% of all cleared trees in that area had no statutory protection. This suggests that the impact of changes made to be RMA could be significant. Further, the study also showed that more than half (54 per cent) of tree canopy clearance had occurred for no obvious reason – that is, no new structures such as dwellings or other buildings, pools, house extensions, decks or driveways had replaced the space that was beneath the cleared forest canopy.

I believe we need greater urban tree protection and agree with you that we need mechanisms to protect mature and ecologically significant trees while ensuring that protections do not create unnecessary compliance costs for routine pruning or the removal of smaller trees. In my view, councils should have the ability to create district plan rules to protect trees with certain attributes, and to selectively apply these rules in areas of the most need.

Auckland is experiencing unprecedented growth with population projected to grow by another 720,000 people over the next 30 years. We will require another 313,000 dwellings, in addition to new infrastructure and community facilities. Auckland Council would appreciate the opportunity to work with government to explore how to better protect urban trees on private properties as part of its Urban Growth Agenda. In particular, within the Urban Planning pillar led by the Ministry for the Environment and the Spatial Planning pillar led by the Ministry of Business, Innovation and Employment/Ministry of Housing and Urban Development. For example, the council could specify a role for urban trees to create quality-built environments and provide guidance on urban tree considerations as part of the spatial planning processes.

Conclusion

Auckland Council recognises that a well-managed, flourishing and healthy urban forest has a wide range of evidence-based benefits. This makes it increasingly essential in counteracting the associated pressures of growth in urban Auckland.

Trees and vegetation play an important role in creating liveable neighbourhoods and provide a range of services required for Auckland to function and thrive. This includes enhanced stormwater management, air pollution removal, improved water quality, cooling to reduce the urban heat island effect, and ecological corridors to connect habitats and improve biodiversity.

Auckland Council has recently published an [Urban Ngahere \(Forest\) Strategy](#), which outlines a strategic approach to managing our urban trees. A key target of the strategy is to increase canopy cover across Auckland's urban area up to 30 per cent, with no local board areas less than 15 per cent. I see the potential for your RMA reforms to provide greater tree protection measures that help us achieve this goal.

We are happy to provide any additional information you may require and would welcome the opportunity to work more closely on these issues and explore together how to drive positive outcomes for urban trees in Auckland.

Yours sincerely



Phil Goff
MAYOR OF AUCKLAND

Appendix 1: State of Auckland's urban forest - based on analyses of LiDAR data collected in 2013.

Some key findings of the 2013 LiDAR data analyses:

- Auckland's urban area has just over 18 per cent urban forest canopy cover.
- Auckland's urban forest is distributed unequally throughout the city, with lower levels of canopy cover in southern suburbs, and relatively high canopy cover in northern and western parts of the city (see *Figure 1*). The unequal canopy cover distribution is particularly apparent at a local board area level (see *Figure 2*).
- The majority of Auckland's urban forest – 60 per cent – is located on privately-owned land. The remaining 40 per cent is on public land, with 23 per cent on Auckland Council parkland, 9 per cent on road corridors, and 8 per cent on other public land, such as schools (see *Figure 3*).
- Tall trees are rare in Auckland's urban areas; only 6 per cent of the urban forest is over 20 metres in height. The majority, nearly 60 per cent, is less than 10 meters (see *Figure 4*).

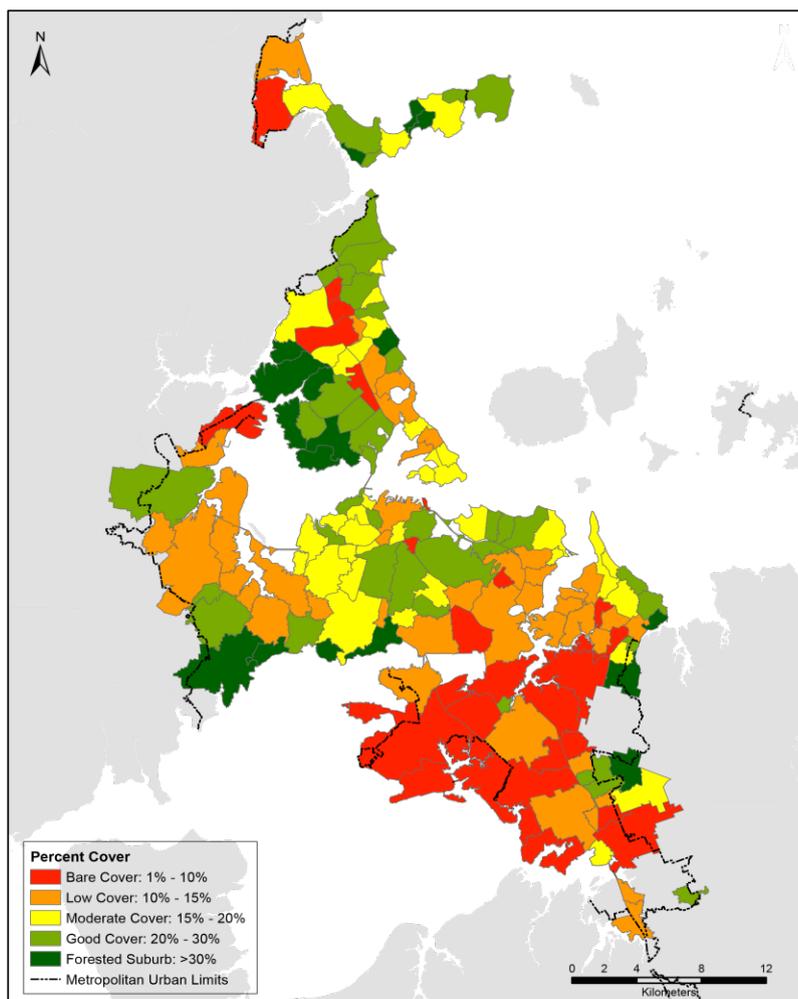


Figure 1. Average percentage canopy cover of urban ngahere (3m+ height) in Auckland suburbs – based on RIMU analysis of the 2013 LiDAR survey.

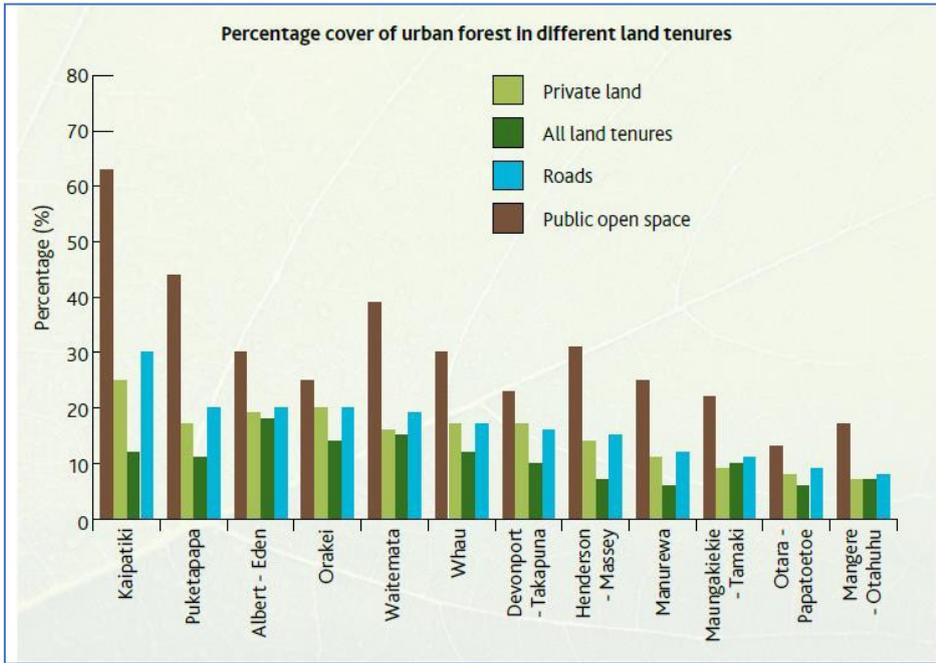


Figure 2. Urban ngahere canopy cover at a local board level.

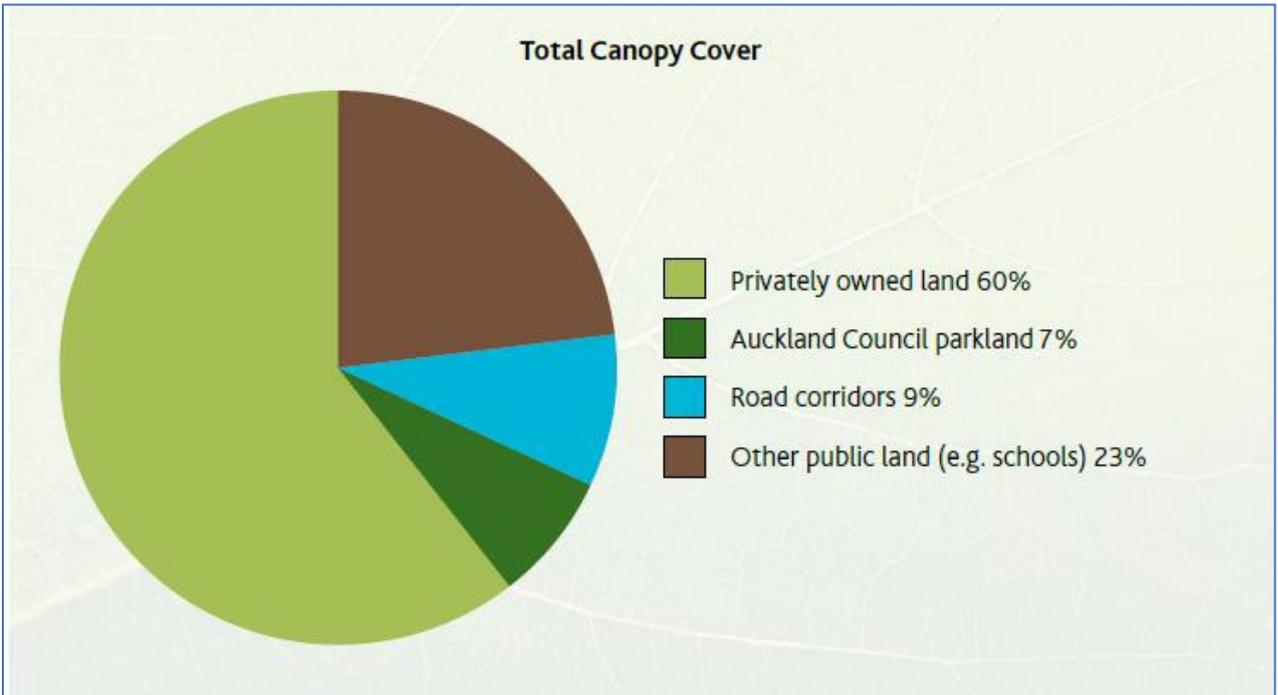


Figure 3. Proportion of urban forest canopy on different land ownership types.

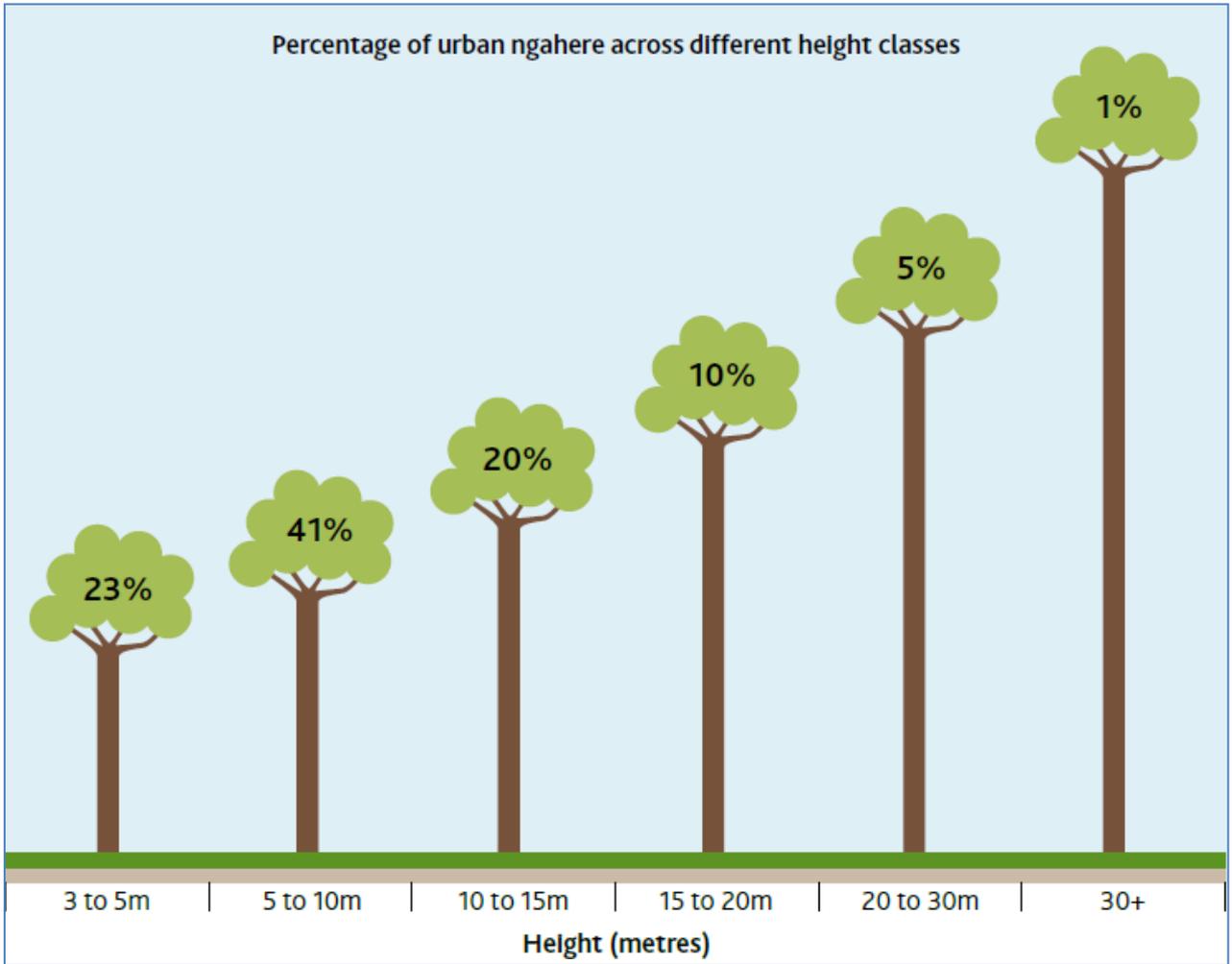


Figure 4. Percentage of urban ngahere across different height classes.

Appendix 2: A preliminary assessment of changes in urban forest canopy cover across six suburbs

Methods

Within the southern half of the Auckland region, six suburbs (Mellons Bay, Howick, Māngere Bridge, Māngere East, Flat Bush and East Tamaki Heights) were selected to assess the change in canopy cover of urban forest. These areas combined made up approximately eight per cent of the southern urban area. Suburbs were chosen to reflect a cross section in demography and baseline canopy cover ranging from low (~10 per cent cover of urban forest canopy 3m+ in height in this suburb) to high (>25 per cent canopy cover). The sample also contained two suburbs on the margins of the metropolitan area that are currently undergoing significant change from rural to urban land use: Flat Bush and East Tamaki Heights.

By using the pre-classified vegetation point cloud data for each 2013 and 2016 LiDAR flyover, we were able to create two respective canopy height models and compare them against each other to detect change. Change was assessed in each of the representative suburbs and broken down into tree height classes. An example of the type of data used to make these comparisons is presented in Figure 1. The red pixels show locations where tree canopy has been lost – usually through the loss of a discrete tree or group of trees.

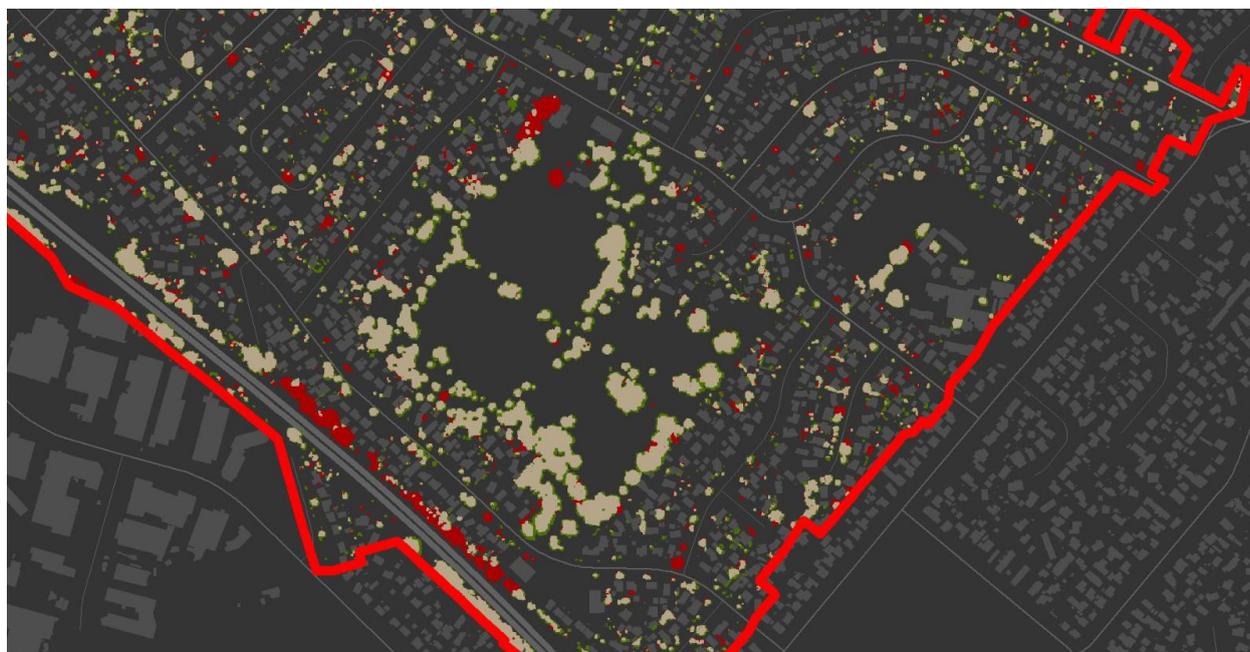


Figure 1: Snapshot of spatial data depicting the change in tree canopy cover between 2013 and 2016 LiDAR data. Red pixels show canopy loss, green pixels are canopy gain, and beige pixels show persistent canopy over the approximately three-year period between the two samples.

Results

The results are to be treated as indicative only, as they have not yet been verified in detail.

This preliminary study detected a one per cent net increase in urban forest canopy cover across all six suburbs that we examined over the three-year period from 2013 to 2016 (*Table 1*). Five out of the six suburbs (Mellons Bay, Howick, Māngere Bridge, Māngere East and Flat Bush) showed a net gain in urban tree canopy cover (*Table 1*). East Tamaki Heights experienced a net loss (-4%) of urban tree canopy of the three-year period. This was largely the result of a single clearance event of large trees (20-30m in height) where exotic plantation forest in the rural fringe of the suburb was cleared and replaced by housing.

Table 1: The percentage cover of urban forest in 2013 and 2016 for a sub-sample of six suburbs from the south-eastern part of Auckland city.

Suburb	Year		% change
	2013	2016	
Mellons Bay	23%	24%	+ 1%
Howick	16%	17%	+ 1%
Māngere Bridge	11%	12%	+ 1%
Māngere East	10%	11%	+ 1%
Flat Bush	19%	20%	+ 1%
East Tamaki Heights	39%	35%	- 4%
TOTAL for all six suburbs	18%	19%	+ 1%

The overall net increase in canopy cover disguised significant change in urban forest cover. The data shows there were significant losses of urban canopy cover in each suburb, although in all but one suburb (East Tamaki Heights) these losses were counter-balanced by the gains (*Table 2*). These suburbs are effectively in a dynamic equilibrium between canopy cover loss from tree removal and development, and canopy gains from tree canopy growth and new tree plantings. The two different types of canopy cover gain are clearly evident in *Figure 1*. The green 'donuts' show marginal growth of established trees, whereas the green 'dots' show where the canopy of a newly planted tree has grown above the 3m threshold for inclusion as part of the urban forest.

The greatest gains in urban forest canopy were experienced in Māngere East and Māngere Bridge (12 per cent and 13 per cent respectively). However, the low 'starting point' in terms of total urban forest cover in these two suburbs meant these relatively large increases in cover only translated to just over one percentage point gain in overall canopy cover (*Table 1*).

Table 2: Gains and losses of urban forest canopy between 2013 and 2016 in a sub-sample of six suburbs from the south-eastern part of Auckland city.

	% loss of 2013 tree canopy cover from 2013 to 2016	% gain in new canopy cover (based on 2013 area) from 2013 to 2016
Mellons Bay	20%	24%
Howick	24%	30%
Māngere Bridge	16%	29%
Māngere East	22%	34%
Flat Bush	14%	15%
East Tamaki Heights	19%	9%
TOTAL for all six suburbs	17%	18%

There has been a disproportional loss of tall urban forest canopy cover between 2013 and 2016. The loss of tree canopy cover in the larger height classes (i.e. taller trees) was clearly evident across all six suburbs (*Figure 2*). With only one exception (15 – 20m height class in Mangere East) net tree canopy 10m+ in height decreased across all six suburbs and net growth in tree canopy cover was confined to the two lower height classes. Flat Bush and East Tamaki Heights in particular were characterised by significant losses of large trees in the rural portions of these suburbs as these areas were cleared to provide 'clean' sites for new development.

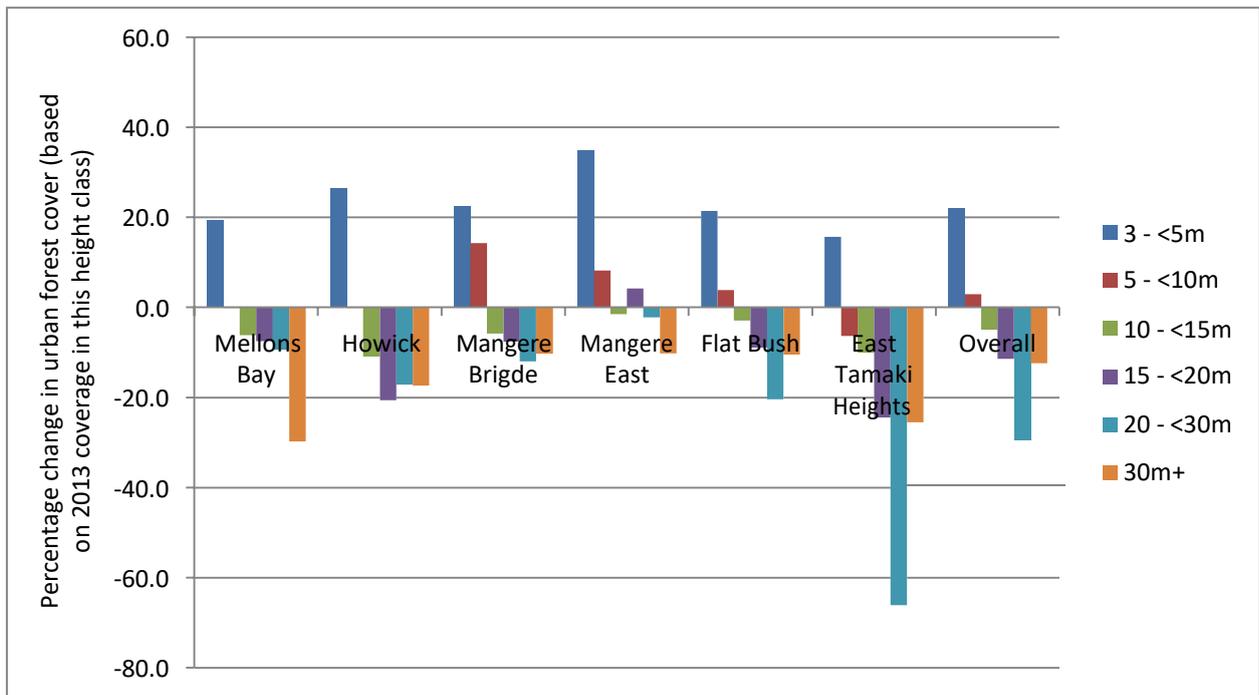


Figure 2: Percentage change (gains and losses) of urban forest canopy in different height classes between 2013 and 2016 with data from a sub-sample of six south-eastern suburbs of Auckland.

Appendix 3: Tree loss in the Waitematā Local Board area over 10 years, 2006-2016

A summary of the report findings are outlined below:

Tree loss versus tree growth

Only canopy losses were captured and mapped in this report. It was evident throughout the aerial analysis that newly established canopy and canopy growth of existing trees has also occurred within the Waitematā Local Board area, in some cases quite extensively.

Given that growth was usually represented by small marginal increments across many tens of thousands of individual trees and shrubs it was impossible to identify and digitise in the same way that tree loss was. An accurate determination of the actual proportion of canopy loss in Waitematā Local Board area therefore requires further data (e.g. LiDAR).

Total tree canopy lost

A total of 61.23ha of tree canopy was lost from the Waitematā Local Board area over 10 years. The loss was made up of 12,879 different detected tree removal 'events'; meaning a minimum of 12,879 trees were cleared. The actual number of trees cleared is likely to be somewhat greater than this figure because the larger clearances involved the removal of multiple trees.

In terms of absolute area cleared, tree canopy loss was dominated by tree canopy removal on private land (65%). However, as private land is also the dominant ownership of tree canopy in the Waitematā Local Board area, this is not an unexpected result. Our data also showed that in the last 10 years there has been a proportionally higher rate of loss on private land with a disproportionately low rate of loss on public parkland.

The collective impact of individual actions

The vast majority of tree clearances were quite small in terms of the quantity of canopy removed at a single location. 57 per cent of total loss of tree canopy was caused by the combined impact of many thousands of individual clearance events, all of which were individually less than 0.01ha (100m²) in size.

In terms of the pattern of tree canopy loss, it really is 'death by a thousand cuts'. More than 90 per cent of clearance events were <0.01ha in size, yet these clearances accounted for almost two thirds of the total area of canopy loss.

Protection status of trees

More than 75 per cent of all cleared trees had no statutory protection and unprotected trees experienced higher rates of tree canopy clearance; about 60 per cent higher than what would be expected on a proportional basis.

86 per cent of tree canopy loss in the 'high protection' categories was on public land (including Newmarket Park stabilisation (45%), Zoo redevelopment (14%), park maintenance (7%)). However, the losses on public land are more likely to be offset, in the fullness of time, by the growth of new plantings.

Reasons for tree loss

More than half of tree canopy clearance had occurred for no obvious reason (54%). That is, no new structures such as new dwellings or other buildings, pools, house extensions, decks or driveways had replaced the space that was beneath the cleared forest canopy. Reasons could include gardening/landscaping, improving light conditions/reducing shading.

Developments, improvements and extensions to existing buildings were the second most important reason for tree canopy clearance (33 %).

Other causes contributed a relatively small proportion of the total (8%): this includes transport e.g. road widening (5%) and remediation of Newmarket Park (3%).

The full report is available to download here:

<http://www.knowledgeauckland.org.nz/publication/?mid=2661&DocumentType=1&>

Letter to Hon David Parker

20 July 2020

Hon David Parker
Minister for the Environment

Via email: d.parker@ministers.govt.nz

Tēnā koe David

We are writing to follow up the letter sent to you on 9 April 2019 regarding assessments of urban trees in Auckland and the impact of RMA changes made by the previous Government. A copy of the letter is attached for your convenience.

We wish to draw your attention to a newly published assessment of Auckland's urban tree canopy cover, and to advocate for your RMA reforms to again allow for the general protection of urban trees where this form of protection is proven to be the most appropriate measure.

Assessment of urban trees in Auckland

Last week, Auckland Council's Research, Investigations and Monitoring Unit (RIMU) published Auckland's urban forest canopy cover: state and change (2013-2016/2018).

The canopy cover report compares two points in time, 2013 and 2016/18, and describes changes across the predominantly urban local boards. The report shows that in 2016/2018 average urban tree canopy cover across Auckland was 18.4 per cent, similar to the 2013 average cover of 18.3 per cent, but well below the 30 per cent goal identified in Auckland Council's Urban Ngahere (Forest) Strategy.

Initial analysis indicates the locations experiencing more gains than losses were typically publicly owned park land and the road corridor, while the locations experiencing more losses than gains were typically privately-owned land and rural areas.

Impact of 2012 RMA changes

Although this RIMU report is an important step in our understanding of Auckland's urban canopy cover, it is difficult to infer any direct impact of the RMA policy changes. To understand the impact of the RMA changes would require more research over a longer period to measure rate of losses and gains overtime, both before and after the RMA changes.

That said, we are advised that our tree protections under the Auckland Unitary Plan are problematic and that there is a potential for your RMA reforms to provide greater tree protection without creating unnecessary compliance costs.

Tree protection under the Auckland Unitary Plan

Currently urban trees in Auckland can be protected via the notable trees schedule of the Auckland Unitary Plan but this creates a number of issues. Firstly, all nominations for an individual tree or group of trees need to go through a full process under the Resource Management Act via a plan change. This is a significant process which involves professional assessment and a public submission process, and costs approximately \$1500 per nomination.

Secondly, even with approximately 5000 individual urban trees protected by the notable trees schedule this remains a tiny fraction of our total urban tree cover so the schedules influence on total cover is minimal. Lastly, schedules of this size within RMA plans easily lose their integrity as trees disappear (due to consented removals/development, illegal removals, storm damage or old age) more quickly than the RMA plan can be updated by plan change.

RMA reforms

As stated in the 9 April 2019 letter, we need greater urban tree protection and agree with you that we need mechanisms to protect mature and ecologically significant trees while ensuring that protections do not create unnecessary compliance costs for routine pruning or the removal of less significant trees.

In our view, councils should have the ability to create district plan rules to protect trees with certain attributes, and to selectively apply these rules in areas of the most need or in areas with specific particular benefits, for example, the North-West Wildlink.

Conclusion

A healthy urban forest has a wide range of benefits, such as enhanced stormwater management, air pollution removal, improved water quality, cooling to reduce the urban heat island effect, and ecological corridors to connect habitats and improve biodiversity. Auckland Council's ability to realise these benefits is constrained by a cumbersome and costly process to add specimens to the notable tree schedule of the Auckland Unitary Plan.

Auckland's urban canopy cover has grown by 0.1% between 2013 and 2016/18; however, we would be able to make greater progress towards our goal of 30 per cent urban tree canopy cover if we had the ability to create district plan rules to protect trees with certain attributes and to selectively apply these rules in appropriate areas of most need whilst also recognising the needs for housing and business capacity.

As you continue your review of the RMA, we encourage you strongly to provide greater overall protection for trees of significance. We would welcome any opportunity to collaborate on the issue of greater tree protection.

Yours sincerely



Phil Goff
MAYOR OF AUCKLAND



Richard Hills
**CHAIR, ENVIRONMENT AND CLIMATE CHANGE
COMMITTEE**

2

Rating Value of Forestry Land

Remit:	That LGNZ request the Valuer General amend the relevant legislation to allow for Local Government to address the growing disparities between the rating valuation of forestry land and other land uses.
Proposed by:	Gisborne City Council
Supported by:	Hauraki District Council; Western Bay of Plenty District Council; New Plymouth District Council; Hastings District Council; Manawatū District Council; Ruapehu District Council; Whakatāne District Council; Central Hawkes Bay District Council; Wairoa District Council; and Waikato District Council.

Background information and research

1. Nature of the issue

Councils with a high proportion of regional land use under forestry currently face challenges to rate foresters at a level which reflects their use of council resources or the forest sector's ability to pay.

This is a result of very low land valuations under established forestry, as the land value is transferred into the value of growing trees which are not included in capital value under the Act.

2. Background to the issue

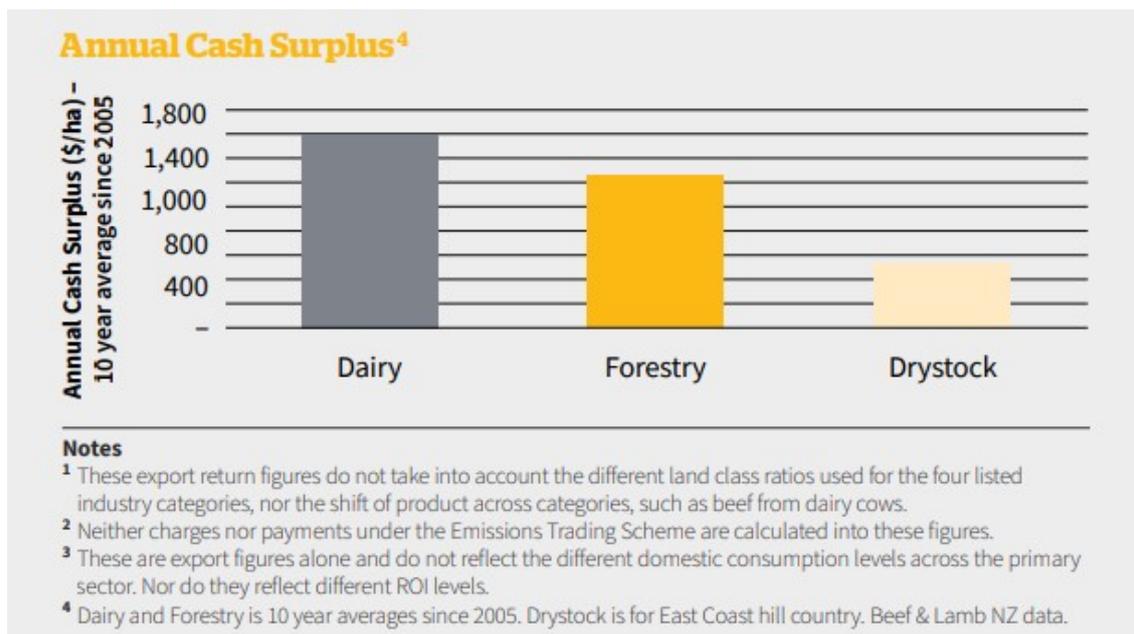
Local Government raises funds by gathering rates from landowners – which are set in accordance with their Revenue and Finance policies. The rates being applied are typically a multiplier of either the Land Value and Capital Value, or some combination of the two. The Land value and Capital Value of assets is presumed to act as a proxy for the landowner's ability to pay.

Councils are required to apply the funds raised to providing services, infrastructure and regulatory oversight to ratepayers and the community. They attempt to align the cost of rates to those who benefit from the service provided where possible – although this is fraught with difficulty and has in recent years become increasingly challenging when considering the nature of the forest sector land values and the relationship to infrastructure needs in the Gisborne region amongst others.

The forest sector is a heavy user of both infrastructure (in particular roads) and regulatory services – and over time has grown in the Tairāwhiti region to cover some 30 percent of land used for economic purposes. During this time, the value of farmland has appreciated significantly – and more recently has seen foresters contest at unprecedented levels for pastoral farmland which when planted, is eligible to earn New Zealand units (carbon credits) at a minimum guaranteed floor price of \$20.00.

However, forestry land prices – where transactions occur from one forest owner to another, have remained depressed and remain significantly lower than pastoral land prices – as land in existing forestry typically has a high proportion of any sale value apportioned to tree value.

This results in land value rapidly being devalued once trees are established, as it transforms into forestry land – while its future demands on council resources remain significant. The fact that there is no capital value attributed to the growing trees means that the rateable value of a property decreases even as its demand on council resources (at harvest) increases. The land value of forestry land is also a poor reflection of this sectors ability to pay, as the graph below depicts the relative profitability of forestry compared with sheep and beef farming.



(Figure 1: relative profitability of forestry compared with sheep and beef farming. Source: FOA Facts and Figures 2019/20)

3. New or confirming existing policy

In the last 15 years the addition of carbon unit revenues earned through sequestration of post 1990 forests has meant that the tree crop rotation cycle (the length of time between incurring expenses and earning income) which may have once formed the bases for excluding exotic forest values into capital value – no longer apply for post 1990 forests.

In addition, when the Rating Valuation Act was last debated in June 1998, the carbon price did not have a minimum guaranteed price. The most contentious issue at the time appears to have been whether or not live hedges should be included in capital value. The section relating to tree value is as follows:

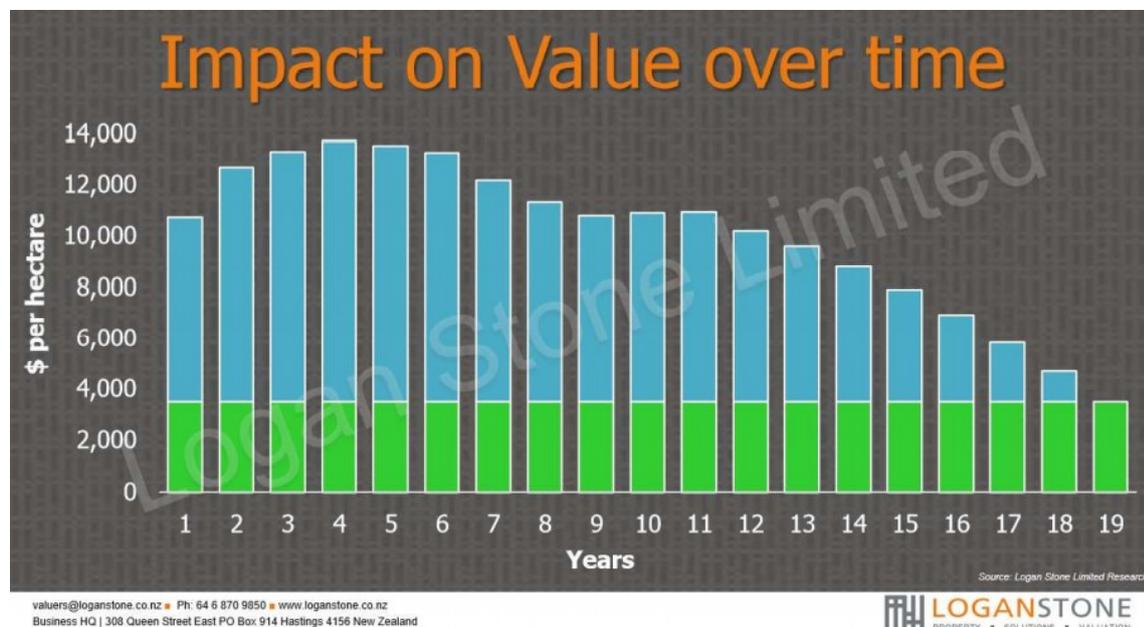
“(1) The value of trees is not to be included in any valuation under this Act unless the trees are fruit trees, nut trees, berryfruit bushes, or live hedges.

“(2) The value of any fruit trees, nut trees, vines, berryfruit bushes, or live hedges is not to be taken into account in assessing the land value of any rating unit under this Act.”

However, the Rating Valuation Act 1998 confers a broad discretion on the Valuer General to make rules setting requirements in relation to valuations which are *“necessary for the maintenance and upkeep of the district valuation roll and in the interest of ensuring national consistent, impartial, independent and equitable rating valuation system.”*

The Net Zero Carbon Act and ETS now provide certainty for the forest sector of an appreciating carbon price and significant returns – which are driving rapid afforestation of pastoral land – both by landowners themselves and forestry expansion at the whole farm scale. This competition for land is increasingly the value of pastoral land – while the depreciation of that land once planted – creates a discrepancy for rating purposes which (in the absence of increasing differentials) is resulting in decreasing rates for forest owners, while their earnings rise significantly.

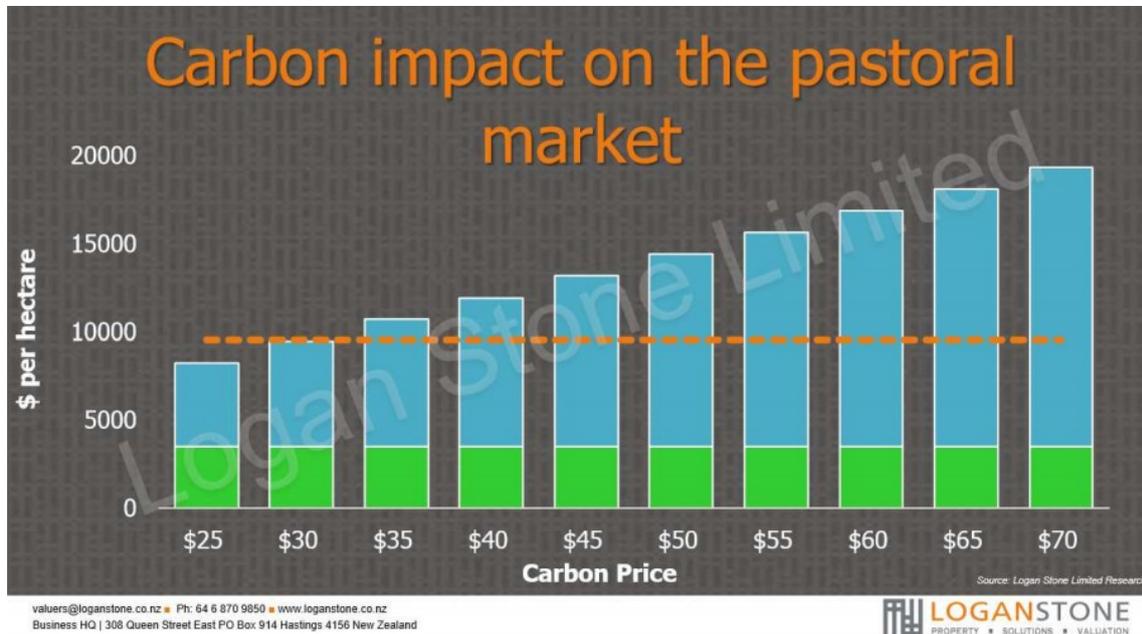
Below the impact of afforestation (including carbon income) on land value is shown over time. This corresponds broadly to observed valuation patterns in the Gisborne region.



(Figure 2: impact of afforestation on land value over time)

These long term decreases create a disproportionate burden for other ratepayers and further exacerbate the degree to which low-income ratepayers are asked to pay for infrastructure and regulatory services – with this trend increasingly apparent over time.

The impact of Carbon price on competition for land use is also in stark contrast to the ability for Local Government to account for these distortions and apply fair and equitable rating valuation system, as pastoral farmers are currently being rated for the potential carbon storage in their land, while those who extract this value, pay less and less with every subsequent year following afforestation.



(Figure 3: carbon impact on the pastoral market)

4. How the issue relates to objectives in the current Work Programme

LGNZ has a current focus on infrastructure and funding – this issue cuts to the heart of these topics and is significantly connected to current climate change work, and the evolving policy in response to the Climate Change Response Act.

The Climate Change Commission (CCC) has made a series of draft recommendations to Government – which detail their expected continuation of afforestation and a rising carbon unit price – which would see the issues outlined above become more pronounced.

The questions around how to fund increasing demands on infrastructure, in particular roads, bridges and drainage systems in the face of climate change, must consider the flows of carbon revenue into regions where forest activities (some of them permanent) will have an impact on local economic cycling and may correspondingly limit Councils' ability to gather rates in a fair and equitable way.

This is at a time when LGNZ's submission to the CCC advice has been to highlight the significant challenges facing councils in addressing the 'transition' and fundamental shifts which will be required at a local level to accommodate changes to local plans, urban form, energy and transport infrastructure to name but a few. Any anomalies in the rating system which exacerbate the inequity already apparent in the rating system should therefore be addressed with urgency.

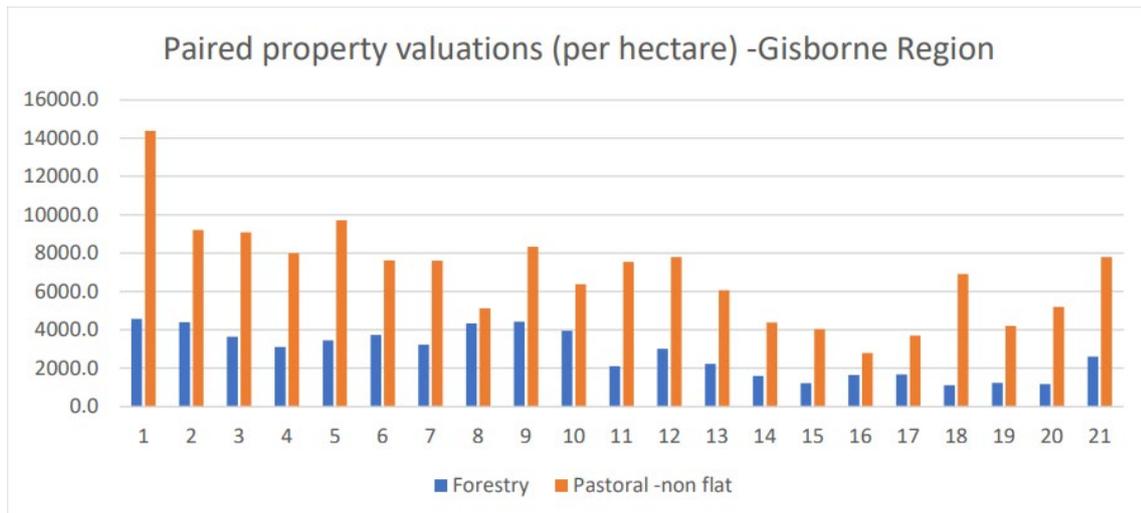
CARBON RETURNS REFLECTING CCC ADVICE FOR 2021-2030-2050							
	NSA/ha	Today's Carbon Price	Price forecast Sensitivity to 2024	Price forecast Sensitivity 2025-2030	Price forecast Sensitivity 2031-2050	Price forecast Sensitivity 2051-2070	
	100	\$39.00	15.8%	11.40%	2.95%	-10.0%	
Age	Yr	Total NZU	Forecast NZU/Value	Annual Carbon Income	A V E R A G I N G	Return/ha/Carbon	
1	2022	50.00	\$45.14	\$2,257.13			\$22.57
2	2023	250.00	\$52.25	\$13,063.11			\$130.63
3	2024	600.00	\$60.48	\$36,289.32			\$362.89
4	2025	2500.00	\$70.01	\$175,020.38			\$1,750.20
5	2026	3136.15	\$81.03	\$254,135.86			\$2,541.36
6	2027	3983.62	\$93.80	\$373,653.46			\$3,736.53
7	2028	5396.10	\$108.57	\$585,856.87			\$5,858.57
8	2029	5536.19	\$125.67	\$695,735.21			\$6,957.35
9	2030	2777.18	\$140.00	\$388,796.04			\$3,887.96
10	2031	3411.63	\$144.13	\$491,706.44			\$4,917.06
11	2032	3780.23	\$148.38	\$560,904.91			\$5,609.05
12	2033	4047.57	\$152.76	\$618,288.79			\$6,182.89
13	2034	4205.94	\$157.26	\$661,433.52			\$6,614.34
14	2035	4315.88	\$161.90	\$698,745.93			\$6,987.46
15	2036	4383.68	\$166.68	\$730,659.28			\$7,306.59
16	2037	4418.15	\$171.59	\$758,128.78			\$7,581.29
17	2038	4417.03	\$176.66	\$780,295.19	\$7,824,970.21	\$7,802.95	

(Table 1: recommended carbon price trajectory – Climate Change Commission)

The above table shows that according to the CCC's recommended carbon price trajectory, revenues would be many times in excess of any pastoral use (as seen in Figure 1). Note also that this table assumes that pruning and thinning takes place – which reduces the net stocked area and temporarily reduces carbon income – failing to prune or thin removes this dip in revenue.

Given the returns available to foresters (and farm foresters) – are significant, paving the way for later harvest revenues – it is appropriate that the Valuer General consider how this issue should be treated for rating purposes and if amendments to the Rating Valuations Act 1998, or addition of new mechanisms at a localised level are appropriate.

There is work being undertaken at a regional level to understand the implications of a rising carbon unit price and the associated land price distortions – however while the land value under forestry remains significantly lower than the land being acquired for forestry – this disparity and the corresponding inequitable outcomes will persist.



(Figure 4: paired property valuations (per hectare) – Gisborne Region)

The above graph represents 21 properties which have been ‘paired’ for consistency, meaning they are located in the same area (ideally neighbouring), are of an appropriately comparable scale and are free from anomalies such as horticulture or significant flat land.

5. Any existing relevant legislation, policy or practice

The introduction of Gold Kiwifruit licence into the calculation of Capital Value illustrates that when an industry is significantly out of step with the purposes of rating valuations – that the Valuer General is prepared to step in. LGNZ should advocate the same approach be applied to this issue.

3

Funding of Civics Education

Remit:	That Local Government New Zealand (LGNZ) advocate to central government for provision of funding to enable Councils to engage in civics education for high school children.
Proposed by:	Hamilton City Council
Supported by:	Horizons Regional Council; Christchurch City Council; Tauranga City Council; Nelson City Council; New Plymouth District Council; Hastings District Council; Waikato District Council; Whakatāne District Council; and Ōpōtiki District Council.

Background information and research

1. Nature of the issue

Currently the provision of civics education in schools is limited and sporadic. A real opportunity exists to get school children meaningfully involved in civic affairs through their local Council.

There is currently a real gap between schools and councils – a gap that needn't exist, given that the very point, and the very strength, of local Government is that it is local. The funding requirement for Councils to be able to play a greater outreach role in their community would be relatively modest, and incredibly beneficial.

There is significant New Zealand and international evidence of the benefit of providing young people with civic education in general, and engagement with local Government in particular.

2. Background to the issue being raised

Hamilton City Council has noted an increasing demand from high schools and their students wanting to engage with Council as part of a rounded education. However, the demand for interaction with Council currently outstrips our ability to supply it. Indeed our current arrangements, which have proved hugely popular, risk being unsustainable without additional funding.

On [some areas of Council business](#), the number of young people now responding to consultations broadly fits the age demographic across the city. These are people who want to engage with Council, but many of them are unable to do so. At large, however, disengagement from local politics is real – and growing. Voter turnout in local elections and cynicism about the work of local Government remain

significant issues – in large part due to a lack of knowledge, particularly among young people, about what Council does, and how people can engage with Council.

Hamilton City Council works in partnership with the Electoral Commission to encourage people, especially young people, to enrol and to vote, but more support from Government would enable all Councils to play a bigger role in this area.

3. New or confirming existing policy?

New policy.

4. Does the issue relate to objectives in the current LGNZ business plan? How?

It supports the work programme by raising the profile of, and accessibility to, local government for young people. The benefits of that could be significant in the long-term.

5. What work or action on the issue has been done, and what was the outcome?

We are aware of small-scale schemes but not national action, which we believe is required.

6. Any existing relevant legislation, policy or practice

There has been lots of academic research on the benefits of civic education in general, and engagement with local government in particular. See for example:

- [Citizenship in Action: Young People in the Aftermath of the 2010-2011 New Zealand Earthquakes | Sisyphus — Journal of Education \(rcaap.pt\)](#)
- [Alive and Motivated: Young people, participation and local government - Murdoch University Research Repository](#)
- [Citizen Schools: Learning to rebuild democracy | IPPR](#)
- [Getting the Majority to Vote: Practical solutions to re-engage citizens in local elections](#)

There is clearly a very good fit between the role of Councils and the [social sciences achievement objectives](#) in the New Zealand Curriculum. Moreover, closer working between schools and local authorities would fit well with the compulsory teaching of New Zealand history in schools and kura from 2022.

The highly successful (but very limited reach) Tuia programme, through which young Māori are mentored by Mayors, which most Councils support (at their own cost) is a further example of both the benefit of young people engaging with their local Councils, and the need for resource to enable this at greater scale.

7. Outcome of any prior discussion at a Zone or Sector meeting

N/A.

8. Suggested course of action by LGNZ envisaged

That Local Government New Zealand (LGNZ) advocate to central government for provision of funding to enable Councils to engage in civics education for high school children.

4

Promoting local government electoral participation

Remit:	That the power the Chief Executive has under the Local Government Act (42, 2 (da)) for “facilitating and fostering representative and substantial elector participation in elections and polls held under the Local Electoral Act 2001” be removed and placed with the Electoral Commission.
Proposed by:	Palmerston North City Council
Supported by:	Zone Three

Background information and research

1. Nature of the issue/background

Local Government authorities, concerned by retaining neutrality, have been inconsistent in their actions to ‘facilitate and foster representative and substantial elector participation.’ The Electoral Commission has greater reach to engage consistently and effectively to increase the low turnout in local body elections.

2. New or confirming existing policy?

This will be a new policy as LGNZ previously supported that option that this responsibility sit with Chief Executives.

3. Does the issue relate to objectives in the current LGNZ business plan? How?

The proposed remit fits clearly within the already identified LGNZ policy advocacy workstreams.

- Five significant projects were identified by LGNZ in its policy advocacy work for 2020/21 year: Housing, Environment, Climate Change; Democratic Well-being, and Transport.
- Within democratic wellbeing is the electoral system reform strand, which is further divided into two projects, one of which is to:
 - o Investigate alternative methods of voting, as well as wider system reform, such as making the Electoral Commission responsible for both local and national elections. This will include examining the checks and balances within the system to ensure they are fair, transparent and fit for purpose.

4. What work or action on the issue has been done, and what was the outcome?

Legislative change has been put in place re: Māori wards (one of the two electoral reform projects). We now ask LGNZ to focus on wider electoral system reform.

The Parliamentary Justice Select Committee Inquiry into the 2017 General Election and 2016 Local Elections (recommendation 15), and the subsequent Inquiry into the 2019 Local Elections and Liquor Licensing Trust Elections and Recent Energy Trust Elections (recommendation 1), recommended (and reiterated) that the Government consider giving responsibility for running all aspects of local elections to the Electoral Commission.

5. Any existing relevant legislation, policy or practice

As above.

6. Outcome of any prior discussion at a Zone or Sector meeting

N/A

7. Suggested course of action by LGNZ envisaged

Ensure LGNZ's voice on the issue is heard by the Justice Select Committee in its call to hear further feedback on the issue, as the Government has indicated that the detail of this change would need to be worked through.

5

Carbon emission inventory standards and reduction targets

Remit:	That LGNZ works with central government in a) developing consistent emission inventory standards for use by local and regional authorities, and b) setting science- based emissions reduction targets to support delivery on our National Determined Contribution (NDC) under the Paris Agreement and on our nationwide emissions budgets being established by government via advice from the Climate Change Commission.
Proposed by:	Palmerston North City Council
Supported by:	Zone Three

Background information and research

1. Nature of the issue/background

Inconsistent emission's inventory standards across different local and regional authorities create difficulties in comparing and contrasting emission profiles. A consistent standard with accompanying guidance could also reduce costs for local and regional authorities by reducing the level of expertise required.

The Climate Change Commission has recently released its first package of advice to Government, proposing a set of three emissions budgets, and includes discussion regarding the delivery and compatibility of our National Determined Contributions (NDC's) with the 1.5°C warming target.

2. New or confirming existing policy?

Enhancing existing policy.

3. Does the issue relate to objectives in the current LGNZ business plan? How?

The proposed remit fits clearly within the already identified LGNZ policy advocacy workstreams.

- Five significant projects were identified by LGNZ in its policy advocacy work for 2020/21 year: Housing, Environment, Climate Change; Democratic Well-being, and Transport.
- The climate change project, in part, seeks to 'Advocate for, and participate in, the development of a right-sized reporting methodology and framework for councils that meets the foreseeable needs of the Climate Change Commission' and notes that

“Councils can also play an important role in mitigation by working with their communities to reduce emissions”.

4. What work or action on the issue has been done, and what was the outcome?

The Climate Change Response (Zero Carbon) Act is now in place, we now ask LGNZ to focus on its implications for Local and Regional Government.

The Climate Change Commission has released its first package of advice to Government. The package contains a range of recommendations for Government, but contains relatively little detail on the role of local and regional government.

5. Any existing relevant legislation, policy or practice

As above.

6. Outcome of any prior discussion at a Zone or Sector meeting

N/A.

7. Suggested course of action by LGNZ envisaged

Ensure LGNZ's voice on the issue is heard by the Climate Change Commission in its call to hear further feedback, and that it work with Government to support delivery of New Zealand's Nationally Determined Contribution.

6

WINZ Accommodation Supplement

Remit:	That LGNZ works with the Government to: <ol style="list-style-type: none">1. Conduct an urgent review of the Work and Income New Zealand (WINZ) Accommodation Supplement (AS) system zones in partnership with Territorial Authorities.2. Schedule a two yearly review of the WINZ AS system zones in partnership with Territorial Authorities ongoing.
Proposed by:	Queenstown Lakes District Council
Supported by:	Hamilton City Council; Nelson City Council; Porirua City Council; Southland District Council; Clutha District Council; and Central Otago District Council.

Background information and research

1. Nature of the issue

Work and Income New Zealand (WINZ) administers an Accommodation Supplement (AS) system, which provides a weekly payment that helps people with their rent, board or the cost of owning a home. It is a means-tested payment that is available to citizens or New Zealand residents aged over 16 who are not in social housing and have accommodation costs to meet¹.

The AS is structured according to four tiers, with AS1 being paid in urbanised areas (\$305 per week) through to AS4 being paid in the least urbanised areas (\$120 per week). The vast majority of the land mass of New Zealand is classified as AS4. With a difference of \$185 per week between AS1 and AS4, it is important that urban areas are zoned appropriately.

However, the AS system has not kept pace with areas experiencing significant change. It was last reviewed in 2018, but for high growth areas significant urban developments have been overlooked. New developments and suburbs have emerged at pace and have remained at their original rural AS level of AS4. With the current government's appetite for increasing housing supply, this issue may become more apparent with progress in this space.

This creates an inequitable and confusing situation between closely located neighbouring suburbs within urban areas. Older urban areas may be zoned as AS1, but new, adjacent neighbourhoods remain zoned AS4 as if never developed. Residents moving into these new neighbourhoods are rarely aware of the significant drop in AS they will experience and the considerable impact this could have upon their family's wellbeing.

¹ <https://www.workandincome.govt.nz/products/a-z-benefits/accommodation-supplement.html>

This remit is recommending that LGNZ pursues an urgent review of the AS map across the country to ensure that households are able to access funds that will meaningfully improve their financial position and wellbeing.

This review should be undertaken in partnership with territorial authorities, aligning urban zoning potential with AS1 areas insofar as possible.

Furthermore, with a strong governmental focus on increasing the supply of housing across New Zealand, the review of the AS system should be conducted every two years in order to accommodate future changes.

Ensuring a regular, systematic review will be essential to maintaining the health of the AS system ongoing. A review every two years will ensure that the risk of this situation threatening the wellbeing of fast-growing communities can be mitigated over the longer-term.

2. Background

The payments are particularly important to people in areas where the cost of living is high, but the average wages are below the national average.

Queenstown is a good example of where this is a challenge. The urban geography of the Queenstown Lakes District has changed considerably due to unprecedented growth in both residential and visitor numbers in the past ten years. Even post COVID 19, demand projections indicate a return to similar levels of growth in the near future².

As such, a number of areas identified as Area 4 (AS4) have now been fully urbanised for a number of years.

This is most notable in the Wakatipu Ward, where 16 per cent of all dwellings are in the Lake Hayes Estate, Shotover Country Estate and Jacks Point. These are family-focussed neighbourhoods with significant capacity to grow, yet these locations are all AS4, eligible for only \$120 AS per week. Rent averages over \$700 per week for households in these locations.

Queenstown will not be alone in facing this challenge, with other high growth areas likely experiencing similar situations.

3. New or confirming existing policy?

This remit represents a new policy position for LGNZ and for Central Government.

4. Does the issue relate to objectives in the current LGNZ business plan? How?

This remit aligns with the policy priorities of LGNZ in relation to social equity and housing. This recommendation is an initiative that will reduce the risk of inequity when increasing the housing supply for working households.

² <https://www.qldc.govt.nz/community/population-and-demand>

5. What work or action on the issue has been done, and what was the outcome?

Queenstown Lakes District Council has advocated on this matter to central government over a number of years with little localised success. A wider system change approach is now recommended.

6. Any existing relevant legislation, policy or practice

This relates to an existing WINZ product and the processes which used to govern its delivery.

7. Outcome of any prior discussion at a Zone or Sector meeting

None.

8. Suggested course of action by LGNZ envisaged

That LGNZ works with the Government to:

- Conduct an urgent review of the WINZ AS system zones in partnership with Territorial Authorities.
- Schedule a two yearly review of the WINZ AS system zones in partnership with Territorial Authorities ongoing.

7

Liability – Building consent functions

Remit:	That LGNZ works with Government to obtain legal protection/indemnity from the Crown in favour of all Councils, and/or to implement a warranty scheme, for any civil liability claim brought against a Council with regards to building consent functions carried out by Consentium (a division of Kāinga Ora), as any such costs should not be borne by ratepayers.
Proposed by:	Waikato District Council
Supported by:	Upper Hutt City Council; Hauraki District Council; Waipā District Council, Ōtōrohanga District Council; Thames-Coromandel District Council; and Hamilton City Council.

Background information and research

1. Nature of the issue

Consentium (an internal division of Kāinga Ora) has been registered as a Building Consent Authority (BCA) and has taken over building consent functions for public housing of up to four levels. Consentium is the only nationally accredited and registered non-Territorial Authority BCA.

If Kāinga Ora is disestablished via a change in government or change in government approach or if the Kāinga Ora properties are sold, then there is a risk that Councils, as “last person standing” are exposed to civil liability claims in respect of the building consent functions carried out by Consentium, with such costs being borne by ratepayers.

2. Background

Kāinga Ora, a Crown Entity subject to the Crown Entities Act 2004, has established its own Building Consent Authority (BCA) called Consentium.

Consentium is New Zealand’s first accredited and registered non-Council BCA (accredited in November 2020 and registered by the Ministry of Business Innovation and Employment (MBIE) 9 on March 2021). Consentium is a separate division within Kāinga Ora. It is not a separate legal entity.

Consentium provides building compliance services for *public housing of up to four levels* which includes:

- Processing of building consent applications;
- Issuing of building consents;
- Inspection of building work;
- Issue of Notices to Fix;
- Issue of Code Compliance Certificates; and
- Issue of Compliance Schedules.

(BCA Functions)

Disestablishment of Kāinga Ora/Sale of the Properties

There is a risk that due to a change in government or government approach that Kāinga Ora could be disestablished thereby taking Consentium with it; or could sell the properties.

If Kāinga Ora were dissolved and/or sold its properties:

- It would no longer own the properties Consentium has provided BCA Functions for, meaning new owners may attempt to bring legal proceedings against Councils (as “the last man standing”) with regards to any existing consents granted by a Council and subsequently assigned to Consentium, via sections 213 or 91(2) of the Building Act 2004, or new consents issued by Consentium. Even if such proceedings are without merit and/or unsuccessful Councils incur the costs of defence of those proceedings;
- Councils would need to take over the BCA Functions for properties that are in the process of construction and have not had a Code Compliance Certificate issued. Issues of split liability may arise where Consentium may have negligently issued a building consent or negligently undertaken preliminary inspections, with the relevant Council completing the remainder of the process. Again, this exposes Councils to risk of legal proceedings brought by the new owners of these properties.

Consentium not being able to meet its share of any civil liability if claims arise

As part of the BCA registration process Consentium had to evidence to MBIE that it will be in a position to meet its share of civil liability if claims arise in respect of the BCA Functions carried out by Consentium. A request was made for a copy of such evidence but was declined by Kāinga Ora on the basis of commercial sensitivity. This is a key issue for Councils. The private certifier system under the Building Act 1991 failed when private certifiers lost their insurance. Councils were left “holding the bag” in respect of any and all properties experiencing issues where they had any involvement and could therefore be pulled into a claim. Councils do not want history to repeat.

3. New or confirming existing policy?

The issue is related to LGNZ's existing housing policy priority, as it impacts on the consenting functions of local authorities and has potential impacts in terms of Council liability.

4. Does the issue relate to objectives in the current LGNZ business plan? How?

As per above.

5. What work or action on the issue has been done, and what was the outcome?

There has been collaboration between a few Councils with regards to obtaining legal advice on an agreement proposed by Kāinga Ora pursuant to section 213 Agreement of the Building Act 2004 with regards to certain existing consents together with advice on the risks Councils are exposed to as a consequence of Consentium taking over BCA functions in their districts.

Kāinga Ora declined to give an indemnity for matters that it had assumed liability for under the proposed section 213 Agreement. It further declined to provide information as to how it satisfied MBIE that it will be in a position to meet its share of civil liability if claims arise.

6. Any existing relevant legislation, policy or practice

As outlined above, Kāinga Ora is a Crown Entity subject to the Crowns Entities Act 2004 (CEA). Section 15(b) of the CEA specifically sets out that a Crown entity is a separate legal entity to the Crown. Section 176 of the CEA and section 49(1)(a) of the Public Finance Act 1989 (PFA) specify that the Crown is not liable to contribute towards the payment of any debts or liabilities of a Crown entity.

There is no statutory guidance on the liability of the Crown entity in tort when it is dissolved. It may be that the general position is similar to the dissolution of a company. However, in the Resource Autonomous Crown Entities, Independent Crown Entities (excluding District Health Boards and Corporations Sole), it is stated at page 59 "Although Crown entities are legally separate from the Crown, in some cases a court may decide that the Crown is liable for the agency. This will depend largely on its statutory functions and the extent of control exercised over the entity by Ministers and other central government agencies".

Section 65ZD of the CEA empowers a Minister to give a person, organisation or government an indemnity or guarantee on behalf of the Crown if it appears to the Minister to be necessary or expedient in the public interest to do so. The indemnity or guarantee may be given on any terms and conditions that the Minister thinks fit. Any guarantee can be given in respect of performance or non-performance by another person, organisation or government. Accordingly, a Minister could provide an indemnity or guarantee to Councils in the event that Kāinga Ora is dissolved, or sells its properties prior to the 10 year holding period currently contemplated.

In most states in Australia, state-backed warranties are a “last resort mechanism” protecting owners from losses arising from defective buildings, for example the Competition and Consumer Act 2010 (Cth), Part VIA and Proportionate Liability Act 2005 (NT). These act as state-backed defects insurance, covering the cost of rectifying defects for new house construction if the builder is insolvent or disappears before rectifying the defects. In its report Liability of Multiple Defendants, the Law Commission considered recommending the introduction of state-backed warranties in New Zealand if a proportionate liability regime was implemented, replacing the current joint and several

7. Outcome of any prior discussion at a Zone or Sector meeting

None.

8. Evidence of Support from Zone/Sector meeting or five Council's

As outlined above there has been collaboration from some Councils with regards to seeking legal advice on the matter and during this collaboration there was the shared concerns around exposure to future liability claims with regards to Consentium's activities, this no doubt will be indicative of concerns across the sector.

9. Suggested course of action by LGNZ envisaged

LGNZ seeking legal protection/indemnity from the Crown in favour of all Councils for any civil liability claim brought against a Council with regards to building consent functions carried out by Consentium, as any such costs should not be borne by ratepayers.

LGNZ seeking a state-backed warranty to be put in place in the event Kāinga Ora is disestablished, in favour of subsequent owners of Kāinga Ora properties, covering any and all liability Kāinga Ora/Consentium would have had in relation to those properties in order to prevent owners from pursuing Councils in respect to those losses, as any such costs should not be borne by ratepayers.

Remits not going to AGM

The remit Screening Committee has referred the following remits to the National Council of LGNZ for action, rather than to the Annual General Meeting for consideration. The Remit Screening Committee's role is to ensure that remits referred to the AGM are relevant, significant in nature and require agreement from the membership. In general, proposed remits that are already LGNZ policy, are already on the LGNZ work programme or technical in nature will be referred directly to the National Council for their action.

The following remits have been declined.

1. Meeting Quorum and Attendance

Remit: That LGNZ calls on the Government to introduce legislation that would update the Local Government Act 2002 to enable members attending meetings via audio link or audiovisual link to be counted as forming part of the quorum of the meeting.

Proposed by: Manawatū District Council

Supported by: Zone Three

Recommendation: That the remit is declined on the basis that it was previously debated and endorsed at the 2020 AGM.

The following remits are referred directly to the National Council for action because they reflect existing local government policy or address matters that are primarily technical in nature.

1. Increase Roadside breath testing

Remit: That LGNZ engage directly with relevant ministers and government agencies to advocate for an increase in the number of roadside breath test and mobile deterrence road safety enforcement activities.

Proposed by: Auckland Council

Supported by: Auckland Zone

Recommendation: That the remit is referred to the National Council for action.

2. Fly tipping

Remit: That LGNZ advocate the Litter Act 1979 be amended to allow for 'cost recovery' in instances where littering/fly tipping is 'more than minor' and the identity of the perpetrator is discoverable.

Proposed by: Gisborne City Council

Supported by: Hauraki District Council, Western Bay of Plenty District Council, New Plymouth District Council, Hastings District Council, Manawatū District Council, Ruapehu District Council, Napier City Council, Rotorua District Council, Whakatāne District Council, Wairoa District Council, Waikato District Council; and Whanganui District Council.

Recommendation: That the remit is referred to the National Council for action

3. Maritime Rules

Remit: That LGNZ recommend Central Government establish and improve the Maritime Rules for recreational vessels in relation to personal flotation devices, vessel registration, and licensing of skippers.

Proposed by: Northland Regional Council

Supported by: Zone One

Recommendation: That the remit is referred to the National Council for action.

4. Alcohol Licencing for appeals

Remit: That amendment be made to the Sale and Supply of Alcohol Act 2012 to enhance opportunities for the community to participate in the alcohol licensing process.

Proposed by: Whanganui District Council

Supported by: Zone Three

Recommendation: That the remit is referred to the National Council for action.