

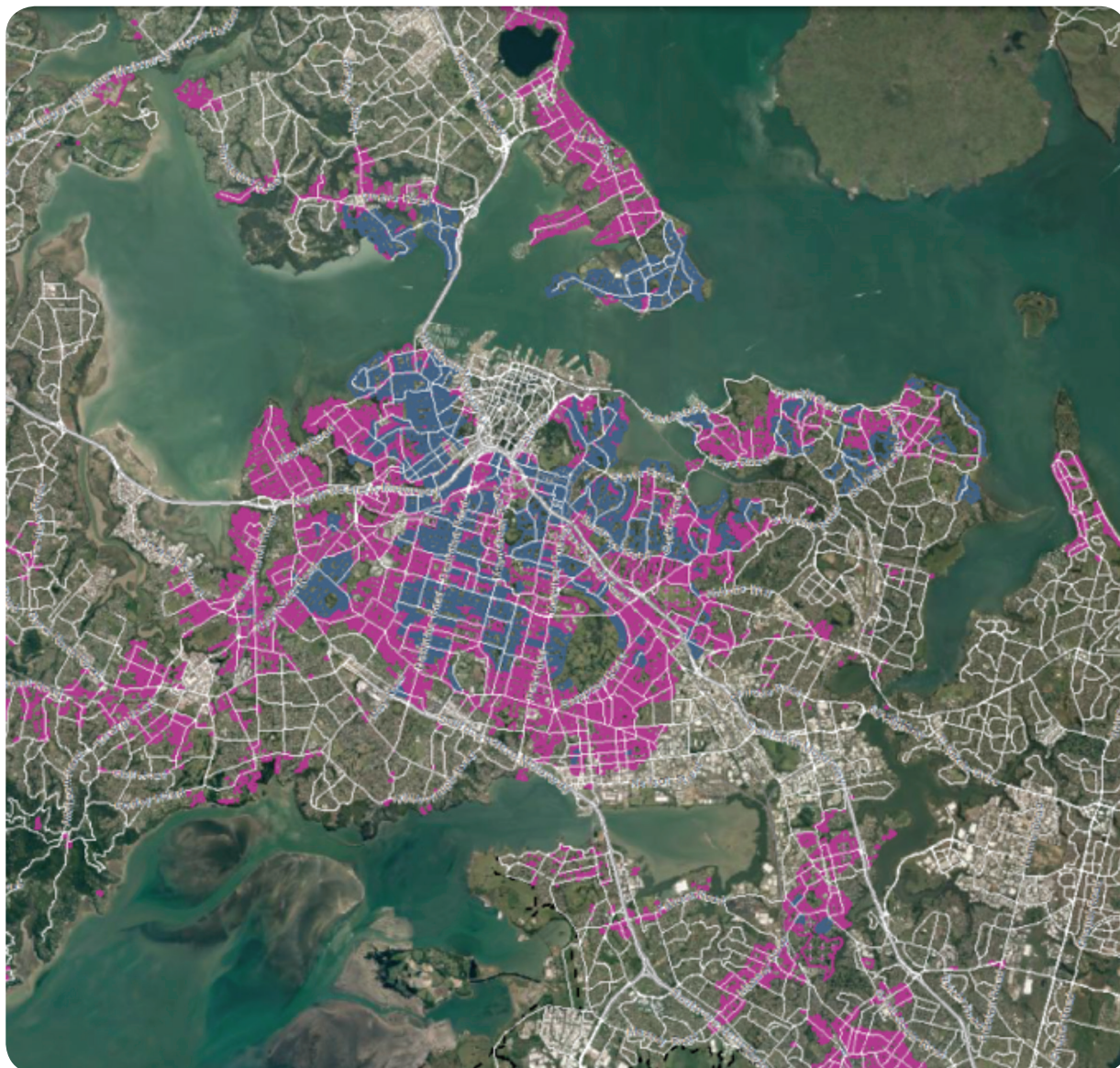
'Purple Haze' and Auckland's Unitary Plan – the Pre-1944 –Demolition Control Rule

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Auckland Council has included an overlay in the Proposed Unitary Plan controlling the demolition and removal of pre-1944 buildings. Applications for removal or demolition of pre-1944 buildings may now be publicly notified under rules in the Proposed Unitary Plan. The stated purpose of the overlay controlling pre-1944 buildings

is to protect potential unidentified historic heritage and special character. The overlay applies to both residential and commercial buildings. In conjunction with existing special character zones (in dark blue) the extent of the overlay is seen in the image below.



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Under the overlay it is necessary to seek a restricted discretionary consent to demolish or remove a pre-1944 building. Applications are first assessed against historic heritage criteria to see if the building should be historic heritage. If the building does not merit listing as at least a category B listing it will be assessed against another set of criteria to determine whether special character listing is warranted. A coherent group of similar or diverse architectural styles is required by the criteria for special character.

If the building qualifies as special character a further assessment is required to determine whether consent should be granted for demolition or removal. In short if the building is capable of being rehabilitated, i.e. not structurally defunct, it is unlikely that resource consent will be granted on the proposed criteria.

Application for resource consent to demolish or remove pre-1944 buildings may be notified. Notified applications have significant cost implications. It is likely that notified applications would attract a significant number of submissions from special interest groups.

THREE ASSESSEMENTS TO DEMOLISH OR REMOVE PRE-1944 BUILDINGS

Historic Heritage	Does the building qualify for Category B listing?
Special Character	Does the building belong to a coherent group of period buildings?
Demolition or Removal Assessment	Can demolition or removal be justified despite heritage or character listing?

The criteria for assessing whether buildings should be listed as special character were the subject of recent Environment Court litigation in respect of the residential 2 zone of the former Auckland City Council [see *Latimour v Auckland Council [2013] NZEnvC 79*]. The criteria were used to assess which buildings in the residential 2 zone should require consent for demolition or removal. Many landowners objected to their properties being identified and appealed to the Environment Court. Cross examination of Council's key witness on the application of the criteria led Council to offer settlements to the majority of the appellants.

Because the overlay is in part to protect historic heritage it has interim legal effect under 86B(3)(d) RMA. Council's position is that both a special character and historic heritage assessment are required under the interim effect provisions. This position may not hold up if tested on appeal as the Environment Court has held that special character is not concerned with historic heritage.

KEY PROVISIONS

Chapter B – Regional Policy Statement

- *Issue 1.3 Protecting our Historic Heritage, Historic Character and Natural Heritage*
- *4.1 Historic heritage*

Chapter C – Auckland Wide Objectives and Policies

- *3 Historic Heritage*

Chapter E – Overlay Objectives and Policies

- *3.1 Business and Residential Special Character*
- *3.2 Pre-1944 Building Demolition Control*

Chapter J – Overlay rules – 3.6 Pre-1944 Building Demolition Control

- *Activity table*
- *Notification*
- *Assessment criteria*

The pre-1944 overlay and extensive character areas pose a significant constraint on intensification of residential and commercial development in prime central areas. In addition to the constraint on demolition and removal, character overlays limit the design and bulk of new development to fit with the existing pre-1944 buildings.

Submissions on the pre-1944 overlay provisions must be made before **28 February 2014**.