

OIA Response for a request for the final version of the

**Strengthening protections for heritage buildings:  
Report identifying issues within New Zealand’s heritage protection  
system, November 2018**

October 2021

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Title: OIA Response to Request for the final version of the  
*Stakeholder Report: Strengthening protections for heritage buildings*

Author: Ministry for Culture and Heritage

This document has been proactively released.

## **Background**

In 2018, the then-Minister for Arts, Culture and Heritage, Rt Hon Jacinda Ardern commissioned this assessment of New Zealand’s system for recognising and protecting heritage buildings. The assessment identified vulnerabilities in the heritage protection system and led to Manatū Taonga establishing the Strengthening Heritage Protection project, a programme of work with three key work-streams:

- Regulatory - Addressing weaknesses in the regulatory system for heritage protection
- Crown Management - Reviewing and updating the 2004 Policy for Government Departments’ Management of Historic Heritage
- Funding and Incentives – Exploring ways to enhance heritage funding and incentives.

The scope of the project was initially limited to heritage buildings, but was extended during 2019 to encompass “historic heritage”. This term has a very broad meaning under the Resource Management Act 1991 (the RMA) and, importantly, includes Māori heritage such as wāhi tapu.

As recommended by the Resource Management Review Panel in June 2020, Manatū Taonga is continuing the Strengthening Heritage Protection programme of work as part of resource management reform, including:

- investigating potential provisions for national direction on heritage
- reviewing heritage order provisions
- exploring options for dealing with ‘demolition by neglect’ issues.

# Strengthening protections for heritage buildings

Report identifying issues within New Zealand's heritage protection  
system

*Ministry for Culture and Heritage*

November 2018

Released under the  
Official Information Act 1982

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## 1.0 Executive summary

### Purpose of this report

Heritage buildings are our taonga and precious inter-generational assets. Heritage buildings connect us to our personal and national identity, support regional economic development and enhance our social wellbeing. They are part of the national fabric of New Zealand society. As such, all New Zealanders have an interest in recognising the significance of heritage buildings and ensuring they are adequately protected.

This report reflects the views of the 250 organisations and individuals who provided written submissions in response to our survey, or who participated in regional workshops and targeted meetings. The enthusiastic response to our outreach demonstrates the depth of feeling among stakeholders for protecting built heritage. There is a genuine desire amongst a full range of respondents to assist the Government to identify and address vulnerabilities in the present system. The outreach highlighted for us that the heritage sector is filled with active, passionate individuals and groups who care deeply about the social, cultural and economic value of heritage buildings. There was a widely held concern that if we do not act now to strengthen the system then the gradual loss of important buildings we have been witnessing will continue, and perhaps accelerate, in the face of increased development pressure and impending deadlines in the Building Act for the mandatory repair of earthquake prone buildings.

### Perceptions of the current system

Stakeholder feedback revealed some positives in the current system of protection. In particular, the significant contributions being made by dedicated groups and individuals across the country to the protection and promotion of our built heritage. The benefits of heritage protection were on show in some areas of New Zealand. Dunedin was as a particularly good example, where cooperation between the City Council and heritage building owners to regenerate entire precincts of heritage buildings has resulted in demonstrable economic and cultural benefits.

Stakeholder feedback suggests that there is broad support for some level of Government intervention to improve the current system of protection, in order to address the issues currently facing heritage protection in New Zealand.

A number of factors were found to be placing the current system under real stress, making heritage buildings vulnerable to partial or complete demolition. The cost of preserving, managing and earthquake-strengthening heritage buildings can be significant for owners, who are often operating in poorly performing regional economies. Economic incentives to invest in this environment are low. Territorial local authorities are on the whole ill-equipped to assist heritage building owners to properly manage their properties. Good quality information and technical assistance appears hard to obtain. Development pressure is a critical factor in many jurisdictions. Formal mechanisms to prevent the loss of heritage buildings are generally inoperative and seldom used.

Stakeholders from across the heritage sector identified some common concerns:

- inadequate statutory identification and regulatory protection of heritage buildings
- the existing protection system is overly complex and difficult to engage with
- ineffective funding and capability in councils is limiting positive outcomes
- the Crown is not leading by example in identifying and protecting heritage buildings in its care.

There was a fairly uniform view that properly designed protections can successfully balance public interest with private property rights and align with urban regeneration and development imperatives.

### **Considerations when developing solutions**

A number of messages shone through from consultation on what should be important when considering possible interventions:

- Specific consideration must be given to the needs of iwi and hapū around protecting built heritage of significance to Māori.
- Specific consideration must be given to heritage buildings in provincial New Zealand, where lower economic drivers and building values impact the viability of heritage retention.
- Solutions should be connected to other Government priorities including economic development, environmental sustainability and inclusive growth.
- Solutions should align with the Government's *Living Standards Framework*.
- We cannot do everything right now. Solutions must be prioritised based on their cost, impact and timeliness. There may need to be sequenced change over a multi-year period.
- We must understand the impact of any change on the overall heritage protection system, and how proposed changes work as a package.
- Any proposed regulatory change should be consistent with the purpose and principles of the Resource Management Act 1991.

### **Desired outcome**

The outcome sought is a heritage protection system that effectively recognises and protects the heritage buildings that New Zealanders value and is cost-effective and user-friendly.

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## 2.0 Introduction

### Context of this report

This report responds to a widely held concern that the current heritage protection system is not fit-for-purpose and as a result, heritage buildings are being unnecessarily lost. Accordingly, in reaching out to stakeholders the Ministry sought to test the following problem definition:

**There are failures in New Zealand’s heritage system that lead to the preventable and permanent loss of heritage buildings.**

‘Heritage buildings’ refers to buildings (including residential, commercial, industrial and public buildings) in New Zealand that have an enduring value to their communities. This includes buildings with existing heritage recognition as well as buildings that are not currently recognised within our heritage system but are likely to be recognised, by a community or experts, as having heritage values worth protecting. While there are many elements of our environments and communities that have heritage value, there are challenges specific to buildings - such as dealing with earthquake-prone building regulations.

### Why we protect heritage buildings

Our heritage buildings are tangible symbols of New Zealand’s history. With time, the number of buildings that have heritage value is likely to increase as recognition for more modern buildings develops. Heritage buildings are inter-generational assets and protecting them contributes to our wellbeing:

*73% of New Zealanders are interested in seeing the country's historic buildings and places protected, with 37% highly interested.*

#### Heritage buildings contribute to our social capital

- Understanding our heritage buildings enables us to appreciate the history of New Zealand, developing greater awareness for our people, places and stories.
- Heritage buildings act as agents for bringing diverse communities together, promoting social inclusion, cohesion and empathy.

#### Heritage buildings contribute to our human capital

- The conservation of heritage buildings creates local, high-quality employment and education opportunities.
- Engaging with heritage buildings, for example as a leisure or volunteering activity, can enhance personal wellbeing and mental health.

#### Heritage buildings contribute to our financial and physical capital

- Heritage buildings contribute to the tourism economy and the reputation and attractiveness of urban areas, and can be commercially viable visitor destinations.
- Evidence demonstrates that there is land value uplift from living close to heritage buildings.

#### Heritage buildings contribute to our natural capital

- Retaining and adaptively re-using heritage buildings ensures their building materials are used sustainably – minimising building waste.

## **Protecting heritage buildings aligns with government priorities**

### *An economy that is growing and working for all of us*

- As part of this focus, the Government has invested \$3 billion to support thriving, sustainable regions through the Provincial Growth Fund (PGF). Among the PGF's priorities are high-quality and sustainable jobs, social inclusion and participation, and increasing the resilience of infrastructure.
- Protecting heritage buildings can give effect to all of these priorities. One example of a heritage-focused project that the PGF has already supported is the strengthening of the Taranaki Cathedral, which will create jobs during the strengthening period, contribute to regional tourism and increase the safety of the building.
- Investing in heritage buildings can also support urban regeneration. Heritage-led regeneration projects, such as Dunedin's Warehouse precinct, Auckland's Britomart precinct, Oamaru's harbour precinct and Greytown, have delivered positive economic and environmental outcomes.

### *Improving the wellbeing of New Zealanders and their families*

- The Government aims for everyone to have the opportunity to contribute to their community in a way that is meaningful for them.
- Protecting heritage buildings supports sustainable careers, and creates education and volunteer opportunities. Heritage buildings can act as vehicles for bringing diverse communities together, promoting social inclusion, cohesion and empathy.

### *Making New Zealand proud*

- The Government is committed to valuing who we are as a country. This includes celebrating our histories and stories.
- Protecting our heritage buildings allows for recognition of significant people and events in New Zealand history. They enable us to directly engage with history and connect to our built environments.

## **Purpose of this report**

This report identifies specific failures within New Zealand's heritage system that are causing the preventable and permanent loss of heritage buildings. Understanding the relative strengths and weaknesses in the heritage system will enable options for improvement to be developed. Enhancements should be cost-effective, have impact, be sustainable and enduring, balance competing economic, social and cultural interests, and align with the broader objectives of the Government. An overview of the current heritage system is provided as Appendix 6.2.

### 3.0 Evidence of heritage loss

#### Information sources

Due to the many actors in the heritage system and the inconsistencies between buildings listed by Heritage New Zealand Pouhere Taonga (HNZPT) and buildings scheduled by Territorial Authorities (TAs), data and monitoring on the current state of the heritage system is fragmented.

There are measures within the Environmental Reporting Act 2015 that relate to historic places, including:

- *damage caused to heritage sites from extreme weather events*
- *Extent, distribution, and condition of sites which are significant from a cultural, historical, archaeological, recreational, or ecological perspective, including wāhi tapu (sacred sites). Covers how the state of the environment affects the condition, integrity, and access to these sites.*

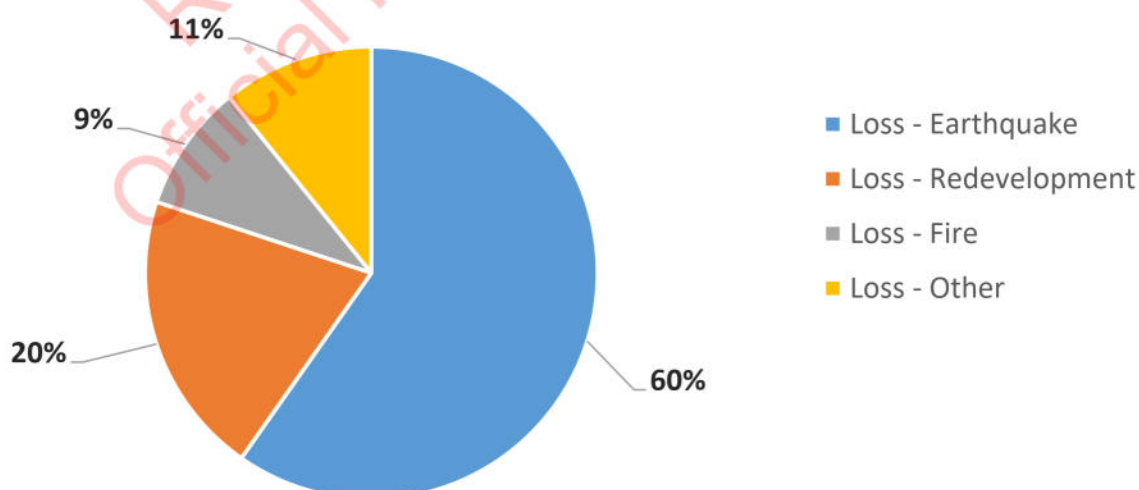
However, no data on these measures has been recorded to date.

The Ministry for the Environment also monitors all resource consents granted by TAs on an annual basis. This allows for tracking decisions that relate to scheduled heritage buildings, however, due to the lack of consistency between different TAs' district plan rules and definitions it is difficult to centrally assess and compare these decisions.

HNZPT's triennial *Assessment of RMA Policy and Plans - Heritage Provisions* reporting provides the most comprehensive information on the current performance of the heritage system. The assessment enables comparable assessments and tracking of progress to protect historic heritage by local authorities in New Zealand. Information taken from HNZPT's 2018 report will be presented throughout this report.

HNZPT also maintains an online record of 'Lost Heritage', places that have been removed from the List because they no longer exist. HNZPT records the reason why places have been lost, such as redevelopment, fire, or natural disaster. This does not record buildings scheduled on district plans that have been lost, or other unlisted, demolished buildings that had heritage value. Figure 1 presents the 231 places (not limited to buildings) added to HNZPT's Lost Heritage record between 2000 and 2017, and the cause of their loss.

Figure 1: Complete Loss of Listed Heritage Places by Cause (2000-2017)





### **Causes of loss**

The impacts that significant earthquakes in Christchurch (2010-11), Seddon (2013) and Kaikōura (2016) have had on built heritage is clear, with 140 listed heritage buildings being lost in the aftermath of earthquakes during this period. Natural disasters such as fires, floods and landslips can also have a negative impact on listed buildings. Redevelopment is also a significant cause of heritage loss in New Zealand, with 60 listed heritage buildings being lost during this period due to redevelopment. This statistic includes buildings that have been redeveloped as a result of safety concerns and deferred maintenance, highlighting the impact that preventable neglect can have on heritage buildings.

Figure 1 only accounts for complete loss of heritage, where a building has been destroyed or demolished. It does not account for heritage buildings which have been subject to alteration or development which has resulted in significant loss of heritage values.

### **Loss of pre-1900 buildings**

In addition, HNZPT data on the loss of pre-1900 buildings recorded through the Archaeological Authority process shows 1,393 instances where authorities were granted permission to demolish pre-1900 buildings between May 2014 and September 2018. The vast majority of these instances (1,224) were lost in the aftermath of earthquakes, although this includes some buildings demolished as part of regeneration projects in Canterbury which were not irreparably damaged in the earthquakes.

### **Loss of marae buildings**

In terms of Māori built heritage, data from Fire and Emergency New Zealand indicates that there are approximately four to five fires on marae each year, with on average one marae building lost annually to fire. Fire is a significant cause of loss for Māori heritage buildings and data indicates that only 46% of marae are equipped with smoke alarms, and even fewer have heat detectors (14%) and sprinklers (11%).

### **Loss of heritage buildings that have no heritage recognition**

The above data only accounts for the loss of heritage buildings that have previously been identified for their heritage values by HNZPT. However, there are many thousands of buildings that are important to communities across New Zealand that have never been formally recognised for their heritage values. Stakeholders we have spoken to expressed serious concerns that many 'unlisted and unprotected' buildings have been demolished that should have been protected for their heritage values. This occurs both in regional centres of New Zealand where there is the least capacity in TAs to protect heritage buildings, and in urban areas where development pressures are highest.

## 4.0 Stakeholder Consultation

### Introduction

In order to better understand stakeholder concerns regarding New Zealand's system for protecting heritage buildings, the Ministry conducted a consultation during June and July 2018. Stakeholders were asked for their views on a number of aspects of the heritage system:

- identification of heritage buildings
- protection of heritage buildings
- current mechanisms for protecting built heritage
- Crown management of heritage buildings
- buildings with heritage values for Māori
- responsibilities, incentives and challenges for the owners of heritage buildings.

These areas of concern formed the basis for a broader stakeholder consultation.

### Methodology

Opinion was sought from a variety of stakeholder groups, including TAs, iwi organisations, advocacy groups, HNZPT, organisations representing built environment professionals (including organisations representing architects, engineers and planners), heritage building owners and developers, and government departments that manage heritage buildings.

Different methods were used to gather feedback from stakeholders, to ensure that findings were as broad and representative as possible.

Overall, 293 individuals and organisations participated in the main consultation process. An initial 227 stakeholders, representing a range of disciplines and interests, provided feedback via a self-complete survey, and this data has formed the basis for the findings discussed within the report. In order to better understand the issues raised by survey respondents, the Ministry also hosted a series of targeted workshops and meetings in Auckland, Wellington, Christchurch, Dunedin and Invercargill. These sessions were attended by 85 stakeholders, some of whom had also completed the survey.

Results of the survey can be found in Appendix 6.3.

### Identified research gaps

While the Ministry endeavoured to consult as widely and comprehensively as possible, there are some segments of the sector which are likely to be under-represented in these findings. This means that issues particular to some regional centres may not have received the prominence they deserve in our findings.

The response rate from private owners was relatively low. However, those who did participate provided in-depth, constructive feedback which we believe highlights the significant issues facing these owners.

During our consultation, the Ministry received input from some Government departments. The Ministry continues to engage with Crown stakeholders, in order to reach all-of-government solutions where possible.

### Overview

There was clear and consistent feedback from respondents that New Zealand's current heritage protection system was not functioning effectively and was resulting in the preventable loss of built heritage. Key themes identified included: a lack of understanding of the current system among some stakeholders and the New Zealand public; a lack of consistency in the identification, protection and management of built heritage throughout the country; insufficient support and guidance for stakeholders around the protection of built

heritage; and a perception that the Crown does not follow best practice in the identification and protection of built heritage under its ownership.

**47%** of respondents did not agree that the New Zealand heritage protection system as a whole currently recognises and protects the buildings that New Zealand communities and experts value.

Respondents also highlighted a number of positive aspects of the existing system that need to be recognised and promoted. Significant contributions are being made by dedicated volunteers across the sector in order to protect and enhance our built heritage. These individuals and groups are responsible for many positive heritage outcomes throughout the country, and they play an integral role in the preventing heritage loss in New Zealand.

A number of heritage professionals and organisations are also taking a proactive approach to built heritage protection. Respondents highlighted the strategic approach taken by TAs to managing heritage in their area. Dunedin was noted as a particularly good example, where cooperation between the City Council and heritage building owners has resulted in a number of positive heritage outcomes, and has illustrated the demonstrable economic and cultural benefits that can result from the protection and preservation of built heritage.

There was also positive feedback on the efforts of HNZPT staff, particularly around the work that has been undertaken in partnership with iwi and hapū to conserve Māori built heritage. Much of this work has been in the form of advice and guidance to iwi and hapū, the value of which is significant, though the impact of this work is difficult to quantify.

Crucially, despite the broad range of interests represented by respondents, there is clear agreement around the need to address the issues currently facing the heritage protection system in New Zealand. The recognition for this need for change suggests that there is strong support for some level of intervention in order to improve the system.

## 4.1 Stakeholder Consultation - Identification of heritage buildings

### KEY FINDINGS

- The current identification process is not well understood by the New Zealand public.
- The HNZPT listing process is seen as overly complex and slow, and has resulted in HNZPT being unable to keep up with the current level of public nominations.
- Heritage buildings of regional and local significance are being lost, because they are not being identified by HNZPT (due to its mandate to identify places of national significance) or by Territorial Authorities (TAs) due to lack of resources at a local level.

Only **29%** of respondents believe that the way that the HNZPT listing process works is clear.

### Public understanding of the heritage system

Opinion around the clarity of the current HNZPT listing process was mixed. Those involved with the process on a professional basis consider it workable, but recognise that it can be confusing for outsiders. This was consistently proven to be true by advocacy groups, building owners and individuals who found the current process complex and unclear.

Particular points of confusion highlighted by respondents include:

- perceptions of what it means to be a 'heritage building' (particularly evident around examples of modernist architecture)
- a lack of transparency around the criteria HNZPT uses to assess heritage significance
- public expectation that a HNZPT listing means a building is automatically protected
- limited understanding of the overall process.

*"Most people don't approach HNZPT until a building is under threat and have no idea of the process involved in even beginning the process. As a museum professional I have often been asked to assist in researching a building to 'save' it at the last possible moment".*

**(Heritage Professional)**

Respondents noted that many people incorrectly think listing has the same meaning as 'protection'. This confusion can have negative consequences for built heritage, with communities only engaging with HNZPT once a building is already under threat of demolition.

## Current timeframes

There are **233** nominated places currently waiting to be assessed and/or nominated for listing by HNZPT.

HNZPT added an average of **21** places to the list each year between 2013 and 2017.

Many respondents believe that HNZPT's listing process takes too long, and is complex and inefficient. Currently, there are no legislative requirements that set timeframes for HNZPT to assess new nominations for listing. There is a need for HNZPT to both produce listing assessments in a timely manner, and to ensure they are comprehensively researched. The current backlog of 233 potential listings suggests that HNZPT is experiencing challenges in adequately resourcing its listing process. Under the current process, HNZPT will not be able to assess all of the places nominated for listing for at least a decade, and some of these places may be demolished before HNZPT has a chance to recognise their heritage values.

*"To other than a small fraction of the engaged heritage community, the process is virtually unknown. Most people think listings happen automatically and don't realise the effort involved."*

**(Advocacy Group)**

**74%** of TAs agreed that the HNZPT listing process helps TAs with their decision-making.

### Identification of sites of local and regional significance

The vast majority of TAs reported that the HNZPT listing process impacts their decision-making, a recognition of the comprehensive nature of the listing process. However, respondents also noted that places which have not been listed by HNZPT are often perceived as not having important heritage value. This can influence decisions around their protection and retention at a local level. This is a particular issue outside of the main centres, where there is limited heritage capability within TAs to proactively identify and list local heritage.

TAs have the ability to identify heritage buildings, and some TAs (particularly the larger TAs) do identify and protect buildings additional to those that are listed with HNZPT. While TAs have identified and protected more than 14,000 heritage places, the vast majority of these places have been recorded in major centres where the TA has dedicated heritage staff. Nearly half of all district plans do not have assessment criteria for including new places on their heritage schedules, and many TAs without these criteria rely on HNZPT to provide guidance on what buildings warrant protection. As a result, heritage buildings that are of regional and local significance are not being identified.

This imbalance has created inconsistency around the perception of the HNZPT List. Smaller TAs often consider it to be authoritative and statutory, while larger TAs give preference to internal decisions on what should be protected.

*"If HNZPT was to be recognised as the primary authority on what constitutes heritage, it could expand its list to include locally significant heritage items... a significant benefit to smaller/regional TAs which generally do not have those skills readily available in-house..."*

**(Building owner/representative)**

## 4.2 Stakeholder Consultation - Protection of heritage buildings

### KEY FINDINGS

- The lack of a consistent approach to identify, assess and protect built heritage is a significant issue for stakeholders, particularly those dealing with multiple TAs.
- Some buildings suffer a loss of heritage values through the resource consent process, even when they are protected under the District Plan.
- The ability of TAs to effectively identify and protect buildings under their jurisdiction is limited by a lack of heritage capability, limited resources and protection decisions often being subject to political influence.

**80%** of respondents do not think different TAs should use different approaches to identify, assess and protect heritage buildings

### Inconsistent approaches to heritage protection

Respondents expressed significant concern at the level of variation that different TAs employ to identify, assess and protect heritage buildings. As an example, respondents noted that HNZPT listings apply to the entire historic place (for a building this can include the building's exterior, interior including any significant chattels, and the area around the building). In contrast, most TA schedules only protect the exterior of a building. In some cases this only extends to the façade of the building.

The adoption of a single consistent approach between individual TAs and HNZPT, that also has a level of flexibility to allow for local circumstances, was advocated by a number of respondents. Many stakeholders expressed support for a scheduling process that is not prone to political interference, noting it is inappropriate that decisions on heritage buildings of national significance are currently made at local levels.

There was strong support for the provision and implementation of best-practice guidance. This is seen to have benefit for TA staff, elected representatives and the public. A key factor identified as a barrier to the implementation of best-practice at a TA-level was the lack of staff with specific heritage expertise within TAs. There is limited specialist training on heritage conservation available in New Zealand, which makes it more difficult for local heritage advisors to accord with heritage conservation best practice.

### Issues with the District Plan process

The TA scheduling process, as part of a district plan review, is seen as cumbersome and slow. This concern reflects the comprehensiveness of the district plan review process, and is a characteristic of the planning system, rather than a specific problem with the heritage system. However, costs of initiating a private plan change are seen as prohibitive for the scheduling of heritage buildings outside of the plan review process (which generally occurs only once every ten years) and respondents suggested that the scheduling process could be made simpler, especially where owners support the scheduling of their property.

*"We are not big enough to warrant this level of disparity between places but more importantly it confuses non-experts and acts as a barrier to engagement."*

**(Heritage professional)**

The scheduling process is also considered to be particularly ineffective around the protection of heritage buildings that are at risk of demolition or inappropriate alteration.

Many respondents also expressed concern that particular TAs have not reviewed the heritage chapters of their district plans for at least 10 years, and demanded that more regular reviews should be enforced and monitored by central government.

Under current legislation, HNZPT's listings are seen as a robust and respected baseline for TAs to make decisions on what heritage buildings to add to their schedules. However, there is concern that while TAs must 'have regard' to the List, they are not legally required to add buildings listed with HNZPT to their schedule, and can determine the activity status around the use and demolition of heritage buildings. This has resulted in the loss of specific heritage buildings that were deemed to be of national significance.

HNZPT reviews district plans on their heritage provisions every three years. In 2018, it found:

- only 33% of district plans had schedules that contained all HNZPT listings
- 28% of district plans did not have rules that HNZPT considers adequate around the demolition of scheduled heritage.

In addition to TAs scheduling buildings from HNZPT's list, respondents also want TAs to complement their schedules by proactively identifying and scheduling buildings of regional and local significance. However, many TAs lack the necessary resources to do this at present, and so rely solely on HNZPT's List for their schedules. On the whole we found that smaller regional TAs lack heritage strategies, full-time heritage staff, heritage protection funds and any planned programme of stakeholder engagement with the heritage sector.

#### **Limitations of the resource consent process**

Dr Greg Mason, a heritage planning consultant, has developed a monitoring system that assesses the heritage outcomes of buildings that have gone through a resource consent process. Assessments have been completed for multiple TAs, and have found that many consents have led to a loss of heritage values, regularly due to deficiencies in the scope, strength and implementation of TA's regulatory methods for managing heritage. This further suggests there would be benefit of consistent rules across New Zealand that could make best-practice regulation mandatory.

**55%** of heritage buildings that had gone through the resource consent process had suffered a loss of heritage values.

For example, monitoring by Mason & McEwan in Wellington City in 2005 suggested that 55% of heritage buildings that had gone through the resource consent process had suffered a loss of heritage values, ranging from relatively minor impacts to significant changes that resulted in the significance of the building being lost.<sup>1</sup> This report resulted in a Wellington City District Plan Change. While this was a positive outcome, many TAs lack the resource to similarly monitor and rectify their planning processes. The report also highlighted that the outcome for built heritage would be even more severe were it not for the protection offered by the resource consent process coupled with the efforts of TA staff to achieve the best possible heritage outcome, highlighting the importance of having adequately trained staff, who enjoy the support of senior management and elected officials within councils.

*"Results indicate that the District Plan's anticipated outcome for built heritage is not being achieved in many instances where a consent is granted."*

**(Mason & McEwan, 2005)**

<sup>1</sup> Mason, G & A McEwan. *Plan Effectiveness Monitoring: Built Heritage Wellington City District Plan*. February 2005.

## 4.3 Stakeholder Consultation - Current protection mechanisms

### KEY FINDINGS

- Existing mechanisms, particularly heritage orders, are not effectively used to protect heritage buildings, and need to be strengthened.
- Existing mechanisms are not able to address instances of ‘demolition by neglect’.

Only **13%** of respondents agree that heritage protection mechanisms are currently being used appropriately to protect heritage buildings

Protection mechanisms are important regulatory tools for protecting heritage buildings outside of the district plan review process, especially when a building faces the threat of demolition. Available mechanisms include heritage covenants under the HNZPT Act, and heritage orders under the RMA.

#### Heritage covenants

Covenants were recognised as encouraging greater cooperation between owners and HNZPT. However, their effectiveness is reliant on the willingness of owners to enter into heritage covenants with HNZPT.

#### Heritage orders

Heritage orders provide strong protection for heritage buildings, and can only be required by Heritage Protection Authorities (that is HNZPT, TAs, body corporates and Ministers of the Crown). Heritage orders are regularly seen as ‘the last resort’ for protecting a heritage building. However, there is real concern that heritage orders are not being used appropriately, with the last heritage order relating to a building issued in 2011 (this order was withdrawn in 2017). Many respondents believe that heritage orders are not well understood. More direct guidance would help Heritage Protection Authorities, and would provide greater clarity for the general public on how heritage orders work.

*“There appears to be little in the way of publicly accessible information as to how these work in the current environment, or how the public could take part in the complex process.”*

**(Advocacy Group)**

Respondents identified potential fiscal liability as having a significant impact on the effectiveness of heritage orders. Issuing a heritage order can lead to the Environment Court either requiring the heritage order to be withdrawn or the Heritage Protection Authority to purchase the heritage place in question under the Public Works Act 1981, if the heritage order would render the heritage place incapable of reasonable use. Respondents noted that this has created a ‘culture of hesitancy’ around heritage orders, and even when there are legitimate grounds to use them, they are not utilised.

Some respondents suggested that funding should be made available to community advocacy groups to enable them to actively engage in heritage resource management decision-making processes. While some funding is currently available from the Ministry for the Environment’s Environmental Legal Assistance Fund, it is regularly over-subscribed, and is not specific to heritage issues. As a result, these groups are often not ‘on a level playing field’ with better resourced organisations.

Respondents also suggested that interim heritage orders that apply only for fixed time periods could be introduced. Such mechanisms exist in multiple states of Australia and in England (known as Building Preservation Notices). In reality, current provisions for heritage orders allow for interim protection, but this is not well understood and has no precedent under the RMA.



### **Addressing demolition by neglect**

While responses to the survey primarily emphasised the need to use existing mechanisms more effectively, many respondents also noted the inability of current mechanisms to enforce active maintenance of heritage buildings, and address the risk of 'demolition by neglect'.

*"Some compulsion to keep buildings in good order is needed – then it won't be so easy to use the excuse for demolition of not being able to make reasonable use."*

**(Building owner/representative)**

In its response to the survey, Dunedin City Council (DCC) discussed the challenges of addressing demolition by neglect, noting *"Presently councils must wait for buildings to deteriorate to a level where they are sufficiently dangerous or insanitary before they can serve a notice under section 124 of the Building Act 2004"*. DCC has recently undertaken a condition survey of its 789 scheduled buildings. This identified 24 buildings at risk of loss due to their poor condition and level of use, and another 64 vulnerable to loss.

Different suggestions were presented, including the re-establishment of a 'Notice to Fix' mechanism. Prior to 1989, there was a 'Notice to Fix' provision within the Historic Places Act 1980 which was an enforceable tool to require owners to maintain a building to a specified level of condition for heritage reasons. Other respondents suggested looking to Australian State regulation, such as New South Wales' Minimum Standards of Maintenance and Repair.

Respondents believe that monitoring and enforcing the maintenance of heritage buildings can only be effectively achieved where an agency is specifically mandated to undertake these functions. While some respondents saw HNZPT as the appropriate agency to monitor the condition of heritage buildings, others suggested this would be best achieved through a partnership between HNZPT and TAs. Importantly, it was highlighted that any monitoring process should also benefit owners, providing them with quality professional advice and access to funding to undertake required maintenance work. Funding and incentives are discussed at section 4.6.

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## 4.4 Stakeholder Consultation - Crown management of heritage buildings

### KEY FINDINGS

- The Crown is not perceived as showing leadership in the identification and protection of heritage buildings in its portfolio.
- The Policy for Government Departments' Management of Historic Heritage 2004 should be updated, expanded, monitored and enforced.
- The identification and protection of heritage buildings subject to the Crown Land Disposal process is considered ineffective.

**71%** of survey respondents consider it unacceptable for some publicly-owned heritage buildings to not be identified by HNZPT or protected by TAs.

### Crown leadership on best practice

Respondents suggested that there is a significant lack of public awareness around how Crown-owned heritage buildings are managed, and what policies and process apply to Crown-owned heritage buildings. There was a consistent call for the Crown to show leadership and not be given an 'opt-out'. Respondents noted that heritage buildings need to be managed consistently, regardless of ownership, and if buildings meet the criteria for listing, then they should be identified and protected.

*"The Crown needs to demonstrate leadership in heritage and it can only do this by following its own guidelines and demonstrating best practice. Applying the policy should be mandatory not merely a guideline."*

**(Advocacy Group)**

While there was some agreement that having heritage buildings in public ownership is a good way to protect them, respondents noted that this did not always provide certainty for heritage protection. Public ownership still needs to be accompanied with appropriate protection, including investment in maintenance and conservation. In general, respondents felt that publicly-owned heritage buildings can be managed in ways that meet the operational needs of the agency, while still taking into account best-practice heritage conservation.

Survey responses identified that Crown management of heritage buildings could be improved by providing greater resources to Crown agencies. This includes funding, as well as ensuring Crown agencies with responsibilities for managing heritage buildings are better informed about the values of the places they own. Respondents would also like management of publicly-owned heritage buildings to be more transparent.

### Policy for Government Departments' Management of Historic Heritage 2004

Many respondents, especially TAs, saw the Policy for Government Departments' Management of Historic Heritage 2004 (the Government Heritage Policy) as a useful document for guiding Government departments on their management of heritage. However, respondents consistently commented the non-binding status of the document as concerning and problematic. It was also noted that the Government Heritage Policy is now out-of-date in some areas. Many respondents noted that the Government Heritage Policy currently only applies to central government departments, but should also apply to Crown Entities and TAs.

The Government Heritage Policy was externally reviewed in 2009 and, at that time, was found to be 'a useful, resilient document'. All departments found it to be clear and flexible, easily applicable to their situations, and did not place unreasonable expectations on them. The review findings were supported by HNZPT. The 2009 review also found that the Government Heritage Policy was not well known and needed to be better promoted and monitored to ensure compliance. However, results of the review were not implemented by the government of the day.

*"If publicly-owned heritage buildings are not valued and protected why should we expect the public to do this with private buildings. You need to lead by example."*

**(TA Representative)**

### **Crown Land Disposal process**

While many respondents were not familiar with the Crown Land Disposal Process, some notable themes did emerge. Those who were aware of the process felt that it did not work well with regards to protecting heritage buildings, an opinion that was particularly strong among advocacy groups. There was also concern that the current process was not transparent, and there was a lack of opportunities for communities to provide input on which buildings and places mattered to them.

Where heritage buildings were subject to the Crown Land Disposal Process, there was concern that efforts to identify potential heritage value before disposal were not strong enough, and that heritage buildings may not be suitably maintained during the process, which could have a negative impact on future heritage outcomes. While HNZPT does provide advice to the Crown on a building's potential heritage value before disposal, any recommendations made by HNZPT are not binding, and there is no current requirement to report on whether actions were taken to protect identified heritage values.

Some respondents felt that TAs also have a responsibility to provide leadership around the management and disposal of heritage assets under their jurisdiction, suggesting that transactions involving council-owned property should include a heritage assessment to ensure any sale will not result in a loss of heritage values.

### **Crown assistance**

A number of respondents believe that the Crown also needs to provide adequate assistance to TAs to ensure they can give effect to the protection of historic heritage as a matter of national importance under the RMA. Consistent standards and guidance, greater funding and increased advice, support and resources were all suggested as ways that the Crown could contribute to achieving better heritage outcomes at a local level.

## 4.5 Stakeholder Consultation - The protection of Māori heritage buildings

### KEY FINDINGS

- Māori heritage buildings are the physical manifestation of enduring cultural practice, and should therefore be considered to be of national importance.
- Conservation, planning and protection work associated with the survival of Māori heritage buildings is often regarded by TAs as a straightforward planning matter, without taking into account the status of these buildings as a taonga, and other matters as set out in Part 2 of the RMA including kaitiakitanga and the principles of the Treaty of Waitangi.
- Marae buildings should be recognised for their special significance, including their intangible values.
- The lack of consistency in the system creates particular challenges for iwi who have heritage buildings in multiple jurisdictions.
- Māori communities would benefit from further guidance, including physical conservation advice and information on how legislation and policies apply to their buildings.

According to HNZPT's 2018 assessment of RMA plans, **78%** of district plans do not make adequate provision for the protection of sites of significance to Māori.

Fire safety, earthquake strengthening, accessibility, and other safety matters have been raised as important issues for Māori heritage buildings. The majority of stakeholders felt that current building regulations do not take the cultural values of Māori buildings into account appropriately.

#### **Māori Communities/Kaitiaki need more support**

Stakeholders recognise that Māori communities need to maintain mana whenua over their taonga and that Māori communities do not want statutory organisations to be the decision-makers around their taonga. This is one factor which contributes to the low number of Māori heritage buildings which are recognised on the New Zealand Heritage List / Rārangi Kōrero (the List). It should be noted that while only 22 of the 333 Māori heritage sites on the List include buildings, HNZPT estimates that they have worked with over 700 marae communities since their marae conservation programme began in the 1970s.

Survey responses from TAs and iwi organisations noted there is a need to develop further guidance – both for the benefit of Māori communities and kaitiaki, and TAs.

Māori communities would like technical support and guidance in expert areas, such as fire safety, earthquake strengthening, and other natural hazards. Kaitiaki also require guidance on physical conservation and restoration activities of Māori heritage buildings.

Only **6%** of respondents believe that the TA scheduling process works well for the protection of Māori built heritage.

TAs need more guidance and support to understand issues around Māori heritage buildings, including their traditional materials and construction technology. It was also felt that TAs should make greater effort to view Māori built heritage as taonga, consistent with section 6(e) of the RMA, rather than simply as a resource consent decision. Strengthening of relationships between Māori communities and government organisations can be achieved through improved recognition, communication and partnerships.

*“It would be great for Councils to learn about the practices of Māori in respect to their care and maintenance of important heritage buildings.”*

**(Iwi authority)**

### **Marae buildings**

There was wide recognition from stakeholders that marae have unique and cultural significance for all New Zealanders. There was also an acknowledgement that the current heritage system does not always suit the holistic values of marae, and that alternative ways of recognising and providing for the long term protection of marae was needed. This includes the potential for Iwi Management Plans to include a schedule and cultural statement of significance for their significant buildings, as an alternative to district plan scheduling.

**35%** of marae have buildings that are more than 100 years old  
**70%** of marae have buildings that are more than 50 years old  
**66%** of marae noted that buildings on site were in need of upgrade.

*The Status of Marae in 2009, Te Puni Kōkiri*

Most marae are registered under the Māori Land Court and located on Māori Reserves, and there does not appear to be strong incentives for Māori to list marae for their heritage values. It is worth noting there were also some comments around whether all marae should be recognised, or only marae of a certain age, and similarly not all buildings on a marae may be of heritage value. This was articulated well by a number of submitters who suggested that although not all marae are ‘historic’, they all have heritage value which is unique to New Zealand, and should be recognised for their national importance.

### **Consistent rules and policies would simplify the system**

Some iwi organisations noted that they have buildings across different TA boundaries, and the lack of consistency between district plan rules and policies was a significant issue as a result.

It was recognised that standard district plan rules for heritage buildings may not be appropriate for Māori heritage buildings. Special guidance and policies specifically for marae could be usefully developed.

*“...we work across six territorial authorities, and two regional councils. There is no standardisation for HNZ listing process with council scheduling processes.”*

**(Iwi authority)**

Securing funding for the conservation of Māori heritage buildings can also be complicated. One respondent noted a case in the Bay of Plenty, where a hapū had struggled to source funding for repairs and maintenance of buildings across multiple locations. The hapū has successfully received funding for their marae through the Lottery Grants Board *Marae Heritage and Facilities Fund* in the past, however protecting another building on a separate land block will require a different application process via Lottery Grants Board *Environment and Heritage Fund*.

## 4.6 Stakeholder Consultation - Owning a heritage building

### KEY FINDINGS

- Issues such as securing finance, obtaining insurance, accessing suitable advice and ensuring commercial viability all influence owner's decisions around a building's future.
- Inconsistent interpretations of Building Act 2004 provisions are a significant challenge for owners of heritage buildings.
- Many building owners have struggled to secure mortgages, tenants, and insurance policies for their heritage buildings especially where these have been deemed to be earthquake-prone.
- Providing owners with adequate financial incentives and professional advice is seen as essential for protecting heritage buildings – especially outside of metropolitan centres.

Of the buildings listed with HNZPT, approximately 70% are in private ownership. This means that it is most often private owners who are responsible for maintaining and protecting the public benefits of heritage buildings.

### Dealing with the Building Act 2004

Many respondents identified compliance with the Building Act 2004 (the Building Act) as one of the most significant challenges for protecting heritage buildings. Respondents also find the Building Act to be complex, and there is very limited understanding of how it takes heritage considerations into account. Principles within the Building Act, include:

- the importance of recognising any special traditional and cultural aspects of the intended use of a building
- the need to facilitate the preservation of buildings of significant cultural, historical, or heritage value.

However, there is variation in how the Building Act, and these principles are considered. Many owners commented that 'trigger' provisions within the Building Act created a disincentive for them to invest in their buildings. This includes where owners change the use of a building, or undertake alterations worth over 25% of their building's value. These triggers can require owners to undertake work for their whole building. Many commented that these triggers effectively penalise owners who want to do positive maintenance of their buildings.

There is a desire from stakeholders to see the Building Act interpreted in a way which better reflects the existing heritage-focused principles within the Building Act, so that compliance for heritage buildings (for issues such as fire safety, disabled access, and ingress/egress issues) does not sacrifice heritage integrity. While TAs have discretion in determining the interpretation of the Building Act, some respondents reported that interpretations were inconsistent, which led to uncertainty and limited practical application. Better guidance on what the term 'as nearly as is reasonably practicable' means in practice for heritage buildings is required. A number of TAs reported that building consultants can be professionally liable if they are considered to have interpreted Building Act regulations with discretion for heritage buildings, meaning that they are very unlikely to do this in the current environment.

*"The costs of maintaining and upgrading heritage buildings are high and only getting higher. Coupled with insurance costs heritage buildings are rapidly becoming unaffordable propositions for private owners."*

**(TA Representative)**

### Earthquake-prone heritage buildings

The cost of strengthening earthquake-prone heritage buildings, especially those facing short strengthening timeframes, was identified by many respondents as one of the most urgent challenges to address for

protecting heritage buildings. The Building Act establishes how earthquake-prone buildings are managed, including setting out timeframes for owners to ensure their buildings comply with the Act.

These provisions are especially challenging for owners of heritage buildings located in high seismic risk zones where timeframes for strengthening are shortest. Owners of priority buildings (which can include buildings with unreinforced masonry on public thoroughfares) and located in high-risk seismic zones have just 7.5 years to strengthen the public-facing earthquake-prone components of their building under the Building Act - though Category 1 Listed buildings are entitled to a 10-year extension to this requirement. Heritage building owners in provincial centres have considerable financial burdens to undertake strengthening within the statutory timeframes because it is not economically viable for owners to do so. Additionally, it can be difficult for owners in the provinces to access quality professional advice about the strengthening process for a heritage building.

A number of building owners commented that they have struggled with securing mortgages, tenants, and insurance policies for their heritage buildings especially due to earthquake-prone status. Some owners expressed significant concern that insurance premiums in New Zealand were not always linked to building performance (and earthquake-prone status) but focussed heavily on building age and regional seismic risk zone, which places undue costs on owners of heritage buildings which are not in fact earthquake-prone. Ultimately, it can be more economical for an owner to leave a building vacant in the current environment than improve it, which can lead to instances of demolition by neglect.

*“It is important to create an environment in which ownership of a publicly-recognised heritage building is seen as an asset rather than a liability.”*

**(Heritage Professional)**

#### **Incentives for private owners to maintain their buildings**

**69%** of respondents do not believe that there are sufficient financial incentives available to effectively support private owners of heritage buildings

Given the significant costs required to strengthen buildings, financial incentives can have a significant impact on an owner’s ability to manage and protect their heritage buildings. Respondents suggested that both central and local government need to contribute to the costs of maintaining heritage buildings, alongside private owners.

In terms of central government support, Heritage EQUIP was noted as an important and welcome incentive programme. Respondents commented that the current eligibility criteria should be extended beyond buildings listed with HNZPT to include buildings scheduled on district plans, and that funding should be made available for feasibility and engineering reports. Stakeholders also highlighted the significant impact that introducing tax deductibility on seismic strengthening and depreciation costs could have as an incentive for heritage building owners.

**59%** of TAs provide financial and/or regulatory incentives to protect heritage

Stakeholders recognise the importance of TAs providing incentives to heritage owners. Existing TA incentives include resource consent fee waivers, contestable grants, rates rebates and provision of free advice. Rates rebates have been found to have worked especially well for TAs and owners in centres such as Dunedin. It was noted that many smaller TAs cannot afford to offer competitive incentives for owners due to low-rating bases, highlighting a need for central government to provide support to TAs. Respondents also noted the importance of recognising and rewarding owners for their heritage stewardship, which can be expensive and involve risk. Supporting and sponsoring local awards and heritage festivals were suggested as an effective means of celebrating owners’ achievements.

## 4.7 Stakeholder Consultation – Education & Engagement

### KEY FINDINGS

- Public understanding and engagement with the current heritage protection system is poor.
- More needs to be done to promote New Zealand’s unique built heritage, and the reasons why it is important to protect it.
- There is a need for greater cooperation between stakeholders in order to improve heritage outcomes.

While there were no specific questions around education and engagement within the survey, these themes were consistently identified by respondents as being important. There was broad agreement that more needed to be done to promote New Zealand’s unique built heritage and to ensure that communities understand the value of identifying and protecting heritage buildings.

#### General public

Respondents believe that greater engagement with the general public is required in order to increase their understanding of why heritage protection is important and how the heritage system works. The need for greater engagement with communities to identify and provide feedback on potential sites of significance was also noted. Many respondents offered suggestions around how best to achieve this, including greater use of social media and less reliance on newspaper notifications. A number of TAs suggested that greater advocacy for heritage at a regional and local level needed to be encouraged, as vocal advocates for heritage protection were critical for TAs when making decisions regarding built heritage.

*“The system is currently about what experts’ value – when does the public really get asked?”*

**(TA Representative)**

#### TAs

Along with the need to provide TAs with more guidance, respondents also noted that this information needs to be easily accessible and that TA staff would benefit from having a centralised point where they could get this information and share it across their communities. This would be of particular benefit for smaller TAs.

#### Building owners

Respondents believe that building owners would also benefit from having greater access to information and guidance at all stages of the process, including: understanding the benefits of owning a heritage building; improving their understanding of their rights and obligations; and having clear guidance on who they should contact with questions around any proposed changes to their building.

Engaging with owners and providing assistance and guidance was highlighted by many respondents as being a more effective way to protect privately-owned built heritage, rather than trying to enhance protection via legislation.

#### Stakeholder cooperation

A number of respondents also noted that there is a need to encourage greater cooperation between stakeholders, noting an ‘us and them’ mentality was common across the sector, especially with regards to building owners. A number of examples were provided of instances of heritage loss occurring as a result of stakeholders with common goals working against one another because of differences in opinion around the best practice. Increased cooperation between stakeholders would help to reduce the adversarial nature of the heritage system.

*“To protect our heritage, what is needed is a collaborative approach led by HNZPT and involving council staff, community representatives and heritage experts all working together.”*

**(Building owner/  
representative)**



## What are the most important issues that need to be addressed within New Zealand's system for identifying and protecting heritage buildings?



## 5.0 Conclusion

### Summary

The Ministry has consulted widely across the heritage sector to test the hypothesis that *there are failures in New Zealand's heritage system that lead to the preventable and permanent loss of heritage buildings*. From our stakeholder consultation and analysis, it is evident that the problem definition is valid, with the stress on the current system of protection resulting in the preventable loss of built heritage.

Respondents consistently told us the HNZPT identification process is too slow and complex, and that TAs have insufficient capacity and guidance on how to best protect heritage buildings. The two processes are not well integrated. Formal mechanisms to prevent the loss of heritage buildings are generally inoperative and seldom used. The most consistently raised suggestions to address these issues were the development of a simplified listing process for HNZPT and a binding National Policy Statement under the RMA.

The complexity and lack of centralised information about the heritage system were also acknowledged as significant issues, creating a barrier for meaningful public engagement in the heritage system. Good quality information and technical assistance is hard to obtain. Respondents regularly identified that creating an easily accessible, centralised portal of information would improve the awareness, understanding and opportunities for engagement in the heritage system.

The costs of preserving, managing and strengthening heritage buildings can be significant for owners, while economic incentives to do so are low. Respondents recognised the limited availability of incentives for heritage building owners, as well as the limited capacity within TAs to offer their own incentives. Effective and well-targeted incentives are needed to facilitate positive heritage outcomes.

Respondents expressed strong concern over the current Crown management of heritage buildings. Many Crown-owned heritage buildings are not being identified or protected, and as a result are being neglected and demolished. The Crown needs to show leadership in heritage management. Respondents overwhelmingly supported the active enforcement and monitoring of the Policy for Government departments' managing historic heritage.

### Next steps

Based on the findings of this report, there is an opportunity to consider what interventions may be made to improve the system. Options will seek to ensure that the heritage protection system is simple to understand, easy to use and provides effective recognition and protection for heritage buildings across New Zealand. Decisions on prioritisation and phasing of changes should be made to ensure effective delivery. These decisions will need to consider the relative impact of proposed changes, cost-effectiveness, alignment with other major government priorities, and how a sequenced suite of interventions might work together as a package.

In order to make valuable and long-lasting changes to the heritage system, a whole-of-government approach is required to support the successful design, delivery and implementation of these changes. Changes must complement ambition towards economic development, environmental sustainability and inclusive growth.

Any changes will require specific consideration of Māori built heritage to ensure proposed solutions can respond to and support the heritage issues of iwi and hapū.

Strengthening the heritage system will inevitably have a regulatory impact on private property rights. Clear communication about the value of strengthening the system will be important to assure owners that any changes are appropriate to recognise the national significance of heritage buildings, and will not unduly burden private property rights. Owners have an integral role in the protection of built heritage, and providing suitable incentives, support and recognition are required to ensure that owning a heritage building is an asset, rather than a burden.

## 6.0 Appendix

### 6.1 History of policy intervention into the heritage system

The current heritage system has evolved following a number of legislative and policy reviews. These include:

- 1977** Town and Country Planning Act 1977. Required TAs to use regulatory planning instruments to preserve and conserve historic buildings. TAs required to schedule any place that the New Zealand Historic Places Trust (NZHPT) issued a protection notice (similar to a Heritage Order) for.
- 1980** Historic Places Act 1980. NZHPT had the ability to issue a notice to fix. This provided that where a building was subject to a protection notice and was in need of urgent works in order to be maintained or preserved, the NZHPT could outline maintenance or preservation work to be undertaken by the owner. If the owner failed to undertake the work, the NZHPT, with the approval of the Minister of Internal Affairs, could issue a repairs notice to the owner requiring the work to be undertaken within a specified period. Where an owner did not carry out the work required, the NZHPT was empowered to execute the works itself and recover the cost from the owner.
- 1991-93** Resource Management Act 1991 and Historic Places Act 1993. Confirmed the position that the NZHPT would become the lead agency in heritage identification and assessment of heritage, while local authorities would take the lead in the protection of heritage.
- 1996** Parliamentary Commissioner for the Environment (PCE) review 1996. Concluded that there would be advantages in limiting the NZHPT Register to nationally and internationally significant places, while the responsibility for listing other places would rest with the territorial authorities and Māori agencies.
- 1998** Historic Heritage Management Review 1998. Made a number of recommendations including the removal of the regulatory provisions of the HPA and that the RMA's historic heritage provisions be enhanced. A number of options were proposed for the NZHPT Register, building on from the recommendations of the PCE report. These options included the status quo, restricting the Register to nationally significant places, and removing the Register altogether. However, no changes were made to the Register as result of the review.
- 2003** Resource Management Amendment Act 2003. Elevated the 'the protection of historic her from inappropriate subdivision, use, and development' to a matter of national importance.
- 2014** Heritage New Zealand Pouhere Taonga Act 2014. NZHPT continued as a Crown entity renamed as Heritage New Zealand Pouhere Taonga. Reformed the governance structure of the organisation and disestablished Branch Committees. This Act also removed interim protection status for places under review, and added new categories of historic places including National Historic Landmarks and wahi tūpuna/tīpuna.

## 6.2 New Zealand's current heritage system

### Legislation in the heritage system

New Zealand's heritage system is established by statute. We have a dual system that separates the functions for identifying and protecting heritage buildings. These functions are established under the Heritage New Zealand Pouhere Taonga Act 2014 (the HNZPT Act) and the Resource Management Act 1991 (the RMA), respectively.

Other pieces of legislation, as well as non-statutory policies, also affect how heritage buildings are managed in New Zealand.

#### *Heritage New Zealand Pouhere Taonga Act 2014*

The HNZPT Act establishes HNZPT as the government's technical advisor on historic heritage.

A primary responsibility of HNZPT is the administration of the New Zealand Heritage List / Rārangi Kōrero (the List). Places on the List have statutory recognition of their heritage values, but the List does not provide protection. The HNZPT Act establishes one of the purposes of the List to 'be a source of information about historic places, historic areas, wāhi tūpuna, wāhi tapu, and wāhi tapu areas for the purposes of the Resource Management Act 1991.'

Anyone in New Zealand can nominate a place for the List. HNZPT can also internally nominate places for listing. The current listing process (illustrated on p.30 of this report) is comprehensive and can involve a public notification process. It takes, on average, one year from initiation for a listing to be finalised.

Due to the comprehensive process HNZPT undertakes for listing, it is restricted on the number of new listings it can progress each year. HNZPT undertakes, at least annually, a prioritisation exercise to determine which nominations for listing to progress. Over time, this has meant that HNZPT has not progressed all of the nominations it has received, even where a nomination has been researched for its heritage value, and is considered very likely to meet the criteria for entry on the List.

HNZPT also has a Cabinet-approved role in the Crown Land Disposal process. HNZPT assesses the significance of any historic heritage values on departmental land prior to disposal, and may recommend measures for protection of nationally significant historic heritage in the national interest. It should be noted that these recommendations have no binding effect.

Through its legislation, HNZPT has the ability to place a heritage covenant on a property. Heritage covenants are voluntary agreements which are agreed to by a property owner for the purpose of protecting and conserving a historic place, historic area, wāhi tūpuna, wāhi tapu, or wāhi tapu area. A heritage covenant is usually permanently registered against the land title and places conditions on the management and use of the place. These restrictions will operate to protect the historic place for the future and can be legally binding on all subsequent owners.

HNZPT also manages the archaeological authority process which regulates the damage, modification, and destruction of archaeological sites, including the destruction of pre-1900 buildings. An archaeological site is defined in the HNZPT Act 2014 as any place in New Zealand (including buildings, structures or shipwrecks) that was associated with pre-1900 human activity, where there is evidence relating to the history of New Zealand that can be investigated using archaeological methods. An archaeological authority is required for the modification or destruction of archaeological sites including buildings constructed before 1900 that will be demolished at one point in time or in stages over a period of time.

### *Resource Management Act 1991*

Under the Resource Management Act 1991 (RMA), historic heritage is defined as those natural and physical resources that contribute to an understanding and appreciation of New Zealand's history and cultures, deriving from any of the following qualities: archaeological, architectural, cultural, historic, scientific and technological, and includes historic sites, structures, places, areas, archaeological sites, sites of significance to Māori including wāhi tapu, and surroundings associated with the natural and physical resources.

The protection of historic heritage from inappropriate subdivision, use, and development is identified as one of a number of matters of national importance that shall be recognised and provided for.

The RMA establishes a hierarchy of planning documents which give effect to the purpose of the RMA and the matters of national importance. This hierarchy includes National Policy and National Environmental Standards, regional policy statements and plans, and district plans.

There is no national policy statement on historic heritage, however, existing National Policy Statements (e.g. on electricity generation) and National Environmental Standards (e.g. on plantation forestry) provide policy direction for managing heritage within the scope of their sector areas.

Under the RMA, regional councils are obliged to prepare a regional policy statement (RPS). Regional councils must also prepare a regional coastal plan and may prepare other regional plans addressing regional issues including historic heritage. RPSs establish a regional framework for the management of historic heritage that district plans must then give effect to.

TAs are most often the RMA decision-makers on matters concerning historic heritage. As part of their district plans, they develop schedules of historic heritage that have rules associated with how the places identified in the schedule are to be managed. This is the most common way in which heritage buildings receive a level of regulatory protection in New Zealand. District plan reviews occur approximately every 10 years. As part of their district plan review, TAs must have regard to all relevant entries on the List, however, they are not required to add places that HNZPT has entered in the List into their district planning schedules.

TAs determine what level of protection places on their heritage schedules are given. Across the country, heritage buildings are given differing levels of protection. There are also different categories used within heritage schedules. Some schedules may have only one category of historic place, others may align with the HNZPT categories (Category 1 and 2), and others may have more than two categories with different levels of rules applied to the different categories.

The RMA also enables the use of heritage orders by Heritage Protection Authorities (these are Ministers of the Crown, TAs, body corporates and HNZPT). Heritage Protection Authorities can require a heritage order to protect the heritage qualities of a place or structure. A heritage order must then be included in a district plan.

While the HNZPT Act did 'streamline and simplify' the archaeological authority process and align timeframes and reporting requirements with those in the RMA, there remains inconsistency between the statutes. A contributing factor to this inconsistency is the difference in definitions applied under the Acts. The HNZPT Act refers to 'historic place' and the RMA refers to 'historic heritage'. While these terms have overlapping but separate meanings, HNZPT does not believe this inconsistency is of significant concern.

### *Building Act 2004*

The Building Act 2004 is the primary legislation governing the building industry. Relevant to the management of heritage buildings, the Building Act contains provisions to ensure existing buildings are incrementally improved, particularly regarding means of escape from fire, sanitary facilities, access and facilities for people with disabilities and in relation to those buildings deemed most vulnerable in an earthquake. The Building Act outlines principles that must be taken into account when decisions are made under the Act, these include:

- the importance of recognising any special traditional and cultural aspects of the intended use of a building
- the need to facilitate the preservation of buildings of significant cultural, historical, or heritage value.

Similar to the RMA, most decisions under the Building Act are made by TAs. This means there can be variation in how the Building Act is applied.

In 2016, the Building (Earthquake-prone buildings) Amendment Act introduced new timeframes for work to be undertaken to address earthquake-prone buildings. Many heritage buildings will be identified as 'earthquake-prone' and will be required to be strengthened. Buildings that are listed as Category 1 historic places on the List or are National Historic Landmarks can apply for an extension of up to ten years to undertake strengthening. Buildings have different timeframes in which to be strengthened, based on regional seismic risk. Buildings in the highest seismic risk zones have the shortest timeframes. If heritage building owners cannot afford to strengthen their buildings in the allocated timeframes, buildings may be required to be demolished.

### *Conservation Act 1987*

The Conservation Act established the Department of Conservation (DoC). DoC manages the largest portfolio of heritage places in New Zealand, which includes significant heritage buildings. Under its legislation, DoC has a responsibility to conserve, and advocate for the conservation of, historic heritage. DoC also has responsibilities under the Reserves Act 1977 for the preservation and management of areas of New Zealand possessing historic and cultural features and values.

Released under the  
Official Information Act 1982

# Flow chart of the standard processes for the identification and protection of heritage buildings

## HERITAGE NEW ZEALAND POUHERE TAONGA LISTING PROCESS

### 1. Nominate a historic building

Any member of the public or HNZPT itself can nominate a heritage building to enter the List by submitting the required application.

Nomination rejected and the process goes no further. However, the building can still be nominated again in following years.



### 2. Prioritisation and preliminary assessment

HNZPT can only progress a few nominations per year through undertaking a preliminary assessment and prioritisation at least once annually.

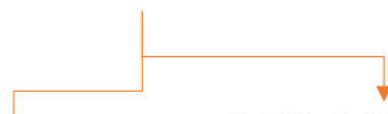
Nomination not prioritised and the process goes no further. However, the building may still be prioritised in future years.



### 3. Report written by Heritage New Zealand Pouhere Taonga

HNZPT produce a report on why the property is worthy of entry on the List. Owners and registered interests are notified during this period.

This process usually takes about three months.



#### 4a. Private agreement with owners

A proposal is agreed upon between the owners, registered interests and HNZPT.

#### 4b. Public submissions opened

The public is given the opportunity to send a submission to HNZPT either for or against the proposed heritage nomination. Notifications are advertised through the local newspaper. The draft reports are available to download on the HNZPT website. The public has 20 days to submit (or 40 days with the approval of HNZPT's CE).

HNZPT's Board does not approve the proposal and the building remains unlisted.

The Māori Heritage Council may also be called upon to make a decision about the proposal

Entering the List only acknowledges the heritage status of a building. It does not grant the building any kind of legal protection.

### 5. Heritage building is entered on the List

The final proposal is sent to the HNZPT Board and, if approved by the Board, the property now enters the List as a heritage building and interested parties are notified.

TAs must 'have regard' to all buildings on the List but also have ultimate discretion on whether or not to include a listed building in the District Plan.

## HERITAGE PROTECTION THROUGH DISTRICT PLAN REVIEW

### 6. District Plan Review

Under the RMA TAs should review their District Plans every ten years. Heritage schedules are contained within the District Plan and are also reviewed during this process.

This process takes about two years to complete.



### 7. Public Notification

Upon notification all rules that relate to scheduled buildings in the District Plan have immediate legal effect whilst the plan or plan change goes through the process of decision-making. The majority of plans and plan changes are publicly notified, and therefore the public will be invited to submit and have a say.

A heritage building does not have to be listed with HNZPT in order to be scheduled by a TA. The TAs have the power to schedule any building within the district that it chooses.



### 8. Written Report and Public Hearing

The TA prepares a report and submitters wishing to be heard can have their say on the proposed changes at a hearing.

At any time, an owner can still apply to demolish a scheduled building, a resource consent for demolition may still be approved subject to a TA decision-making process under the RMA.



### 9. Plan Operative

Once the public have had their say, a decision is made and all heritage buildings that make it through process are now protected through the District Plan. This means that everyone must abide by rules that are established so that change that affects heritage value of the building is managed.

Anyone can request a private plan change at any time. However, this is uncommon as it is an expensive process to initiate at the cost of the private person.

## **Policy and non-statutory documents in the heritage system**

### *Policy for Government Departments' Management of Historic Heritage 2004*

The Ministry for Culture and Heritage administers the Policy for Government Departments' Management of Historic Heritage 2004. The Policy, agreed to by Cabinet, outlines a best-practice framework for the management of historic heritage in government ownership.

The Policy initially applied to 13 core government departments, with each of those departments also provided, where appropriate, with guidelines for managing their historic assets. The Policy was not made mandatory. A review in 2009 found it to be a useful, resilient document, but needed to be better promoted and monitored to ensure compliance. Since that time there have been a number of changes to some departments' property portfolios, as well as aspects of management (e.g. crown land disposal, changes in legislation etc.) that need to be brought into the Policy. The Ministry for Culture and Heritage does not actively enforce or monitor the Policy.

### *The ICOMOS New Zealand Charter / Te Pūmanawa o ICOMOS o Aotearoa Hei Tiaki I Ngā Taonga Whenua Heke Iho o Nehe*

ICOMOS (the International Council on Monuments and Sites) is an international non-governmental organisation of heritage professionals engaged in the conservation of places of cultural heritage value and dedicated to the conservation of the world's historic monuments and sites.

The New Zealand committee (ICOMOS New Zealand / Te Mana o Ngā Pouwhenua o Te Ao) administers the ICOMOS New Zealand Charter 2010 (the Charter) which is a set of principles that guide conservation practice. The Charter is widely used in the New Zealand heritage sector as a recognised benchmark for conservation standards and practice. It is used by HNZPT, many TAs (although the exact number is not known), and underpins the Policy for Government Departments' Management of Historic Heritage 2004.

## **Other aspects of the heritage system**

### *Heritage advocacy in New Zealand*

Heritage advocacy is undertaken by a number of organisations in New Zealand. Both HNZPT and DoC have statutory responsibilities to advocate for historic heritage. HNZPT may advocate for the protection of listed buildings during district plan and resource consent processes. However, limited resource means that it often has to prioritise advocacy for only the most significant places. Historically, this has meant HNZPT may only engage in advocacy for Category 1 historic places, and not Category 2 historic places or unlisted places with heritage value. Through the district plan review process HNZPT advocates for consistent and best-practice rules for the protection of places on the List.

A significant proportion of heritage advocacy in New Zealand is led by volunteer organisations, operating at national, regional and local levels. Volunteer advocacy is particularly critical for the protection of locally-significant heritage buildings, which may be unlikely to receive recognition from HNZPT.

Advocacy groups often proactively prepare their own lists of heritage places, which can become useful references for HNZPT, when considering future priorities for the List, and TAs, when considering places to schedule in district plans. These lists may relate to heritage places in specific geographic areas, or focus on thematic listings across the whole of New Zealand such as Rail Heritage Trust of New Zealand register and the Engineering New Zealand register.



### Information and education

To assist with public understanding of the heritage system, information on different aspects of the system can be found on a range of Government websites, including the websites of:

- HNZPT, this includes an online version of the New Zealand Heritage List / Rārangī Kōrero (the List)
- Ministry for Culture and Heritage
- Quality Planning, administered by Ministry for the Environment.

Information is also available on the websites of:

- Local Government New Zealand
- Individual TAs, this includes electronic copies of district plans and heritage schedules.

Due to the multiple sources of information on the heritage system, it is not always simple for individuals to know where to look for specific information. Even where information does exist, it is often presented in a technical way and can be difficult for a lay person to understand.



### Training opportunities




There are limited opportunities to study heritage conservation in New Zealand. While there are multiple post-graduate courses in museums and heritage studies, few offer technical conservation training. The recent introduction of a Masters of Heritage Conservation Programme by the University of Auckland in 2016 has expanded local training opportunities.

The shortage of qualified staff in the building industry, especially those with heritage experience and expertise, also has flow-on effects on the protection of heritage buildings. This is particularly true with regards to the availability of suitably qualified tradespeople and structural engineers working outside of New Zealand's main centres.

### Funding

A range of funding sources is currently available to support heritage projects, including for restoration and seismic strengthening work. Many of the existing funds are regularly over-subscribed and not able to meet current demand. The below table illustrates some of the sources of available for protecting built heritage.

Fund	Fund Administrator	Details
 Heritage EQUIP	Ministry for Culture and Heritage	Heritage EQUIP is a \$12 million incentive programme, distributing grants for seismic strengthening of privately-owned heritage buildings, alongside an online information package.
 National Heritage Preservation Incentive Fund	HNZPT	Approximately \$500,000 annual funding is available for restoration, conservation and professional services work on privately-owned places on the New Zealand Heritage List / Rārangī Kōrero.

 <p>Lottery Environment and Heritage Committee</p>	<p>Lottery Grants Board</p>	<p>Makes funding available for built heritage projects delivered by charitable trusts, community organisations and TAs.</p>
 <p>Oranga Marae</p>	<p>Te Puni Kokiri</p>	<p>This a programme of support, advice and investment aimed at supporting the physical and cultural revitalisation of marae, as centres of Māori identity and mātauranga. While it is not focused on historic marae, funding can be allocated to heritage projects.</p>
<p>TA Incentive Schemes</p>	<p>Individual TAs</p>	<p>59% of TAs in New Zealand offer financial and/or regulatory incentives heritage building owners. These include grants, access to professional advice, reduced rates and costs for resource consent fees. TA incentives vary in scale depending on the size of the local rating base.</p>
 <p>Provincial Growth Fund</p>	<p>MBIE</p>	<p>Heritage projects may be eligible for the Government's Provincial Growth Fund if a project can demonstrate that it will lift the productivity of a region, and contribute to fund objectives (enhancing economic development opportunities, creating sustainable jobs and boosting social inclusion and participation).</p>
<p>Community Trusts</p>	<p>Individual Trust bodies</p>	<p>Although not solely focussed on heritage projects, many regional community trusts make funding available for heritage projects within their regions.</p>

Released under the Official Information Act 1982

## 6.3 Results of Stakeholder Survey

	Agree	Disagree	Neutral	Unsure or n/a
<b>Identification of Heritage Buildings</b>				
The HNZPT listing process aligns effectively with TA scheduling processes	19.8%	<b>55.5%</b>	11.0%	13.7%
The way the HNZPT listing process works is clear	29.1%	<b>39.6%</b>	16.3%	15.0%
Having more than one system for recognising and protecting heritage buildings makes the process of protecting heritage buildings too complex	<b>68.1%</b>	16.4%	10.6%	4.9%
It's acceptable for some heritage buildings to <u>not</u> be identified by HNZPT	33.9%	<b>53.3%</b>	6.2%	6.6%
<b>Protection of Heritage Buildings</b>				
It's acceptable for different TAs to use different approaches to identify, assess and protect heritage buildings	14.1%	<b>79.7%</b>	4.0%	2.2%
TAs need more guidance on best-practice methods for protecting heritage buildings	<b>78.4%</b>	8.4%	6.2%	7.0%
The TA scheduling process ensures the timely protection of heritage buildings	15.0%	<b>66.8%</b>	8.4%	9.7%
The TA scheduling process works well for Māori heritage buildings	5.7%	29.1%	16.3%	<b>48.9%</b>
The HNZPT listing process helps TAs in their decision-making on protecting buildings	<b>55.1%</b>	15.4%	9.7%	19.8%
<b>Heritage Protection Mechanisms</b>				
There is enough guidance available on how heritage protection mechanisms can be used to protect buildings	17.3%	<b>51.3%</b>	11.1%	20.4%
Heritage protection mechanisms are currently being used appropriately to protect buildings	12.8%	<b>51.8%</b>	15.5%	19.9%
More heritage protection mechanisms are needed	<b>62.7%</b>	11.1%	11.1%	15.1%
<b>Crown Management of Heritage Buildings</b>				
The Policy for Government Departments' Management of Historic Heritage 2004 provides useful guidance for protecting Crown-owned heritage buildings	24.8%	20.8%	13.3%	<b>41.2%</b>
The Crown Land Disposal process works well to protect heritage buildings	5.3%	35.4%	14.2%	<b>45.1%</b>
It's acceptable for some publicly-owned heritage buildings to not be identified by Heritage New Zealand or protected TAs	12.3%	<b>70.5%</b>	7.0%	10.1%
Having heritage buildings in public-ownership is a good way to protect them	<b>47.8%</b>	21.7%	21.2%	9.3%
It's acceptable for publicly-owned heritage buildings to be managed in different ways, depending on which organisation owns them	34.1%	<b>37.2%</b>	16.4%	12.4%

	Agree	Disagree	Neutral	Unsure or n/a
<b>Responsibilities and Incentives for Private Owners of Heritage Buildings</b>				
Heritage building owners have enough information about their responsibilities to care for their buildings as outlined in the Building Act 2004	12.8%	<b>52.0%</b>	13.7%	21.6%
The current responsibilities of private owners are appropriate given the costs of owning a heritage building	11.9%	<b>38.5%</b>	19.9%	29.6%
There are financial incentives available that effectively support private owners to maintain and upgrade heritage buildings	2.2%	<b>69.2%</b>	10.1%	18.5%
There are <u>non-financial</u> incentives available that effectively support private owners to maintain and upgrade heritage buildings	13.7%	32.6%	15.0%	<b>38.8%</b>
<b>Buildings with Heritage Value for Māori</b>				
TAs and kaitiaki need more guidance and support about options for protecting and recognising Māori heritage buildings	<b>52.4%</b>	1.8%	11.5%	34.4%
Marae buildings should have recognition within our heritage system for their cultural value	<b>63.9%</b>	6.2%	7.9%	22.0%
Current building regulations take the cultural values of Māori buildings into account appropriately	8.0%	26.5%	15.0%	<b>50.4%</b>
<b>The New Zealand Protection System as a Whole</b>				
The New Zealand heritage protection system as a whole currently recognises and protects the buildings that New Zealand communities and experts value	35.0%	<b>47.3%</b>	8.0%	9.7%
<i>Sample</i>	<i>n=227</i>			

*Agree = Strongly/Slightly Agree*

*Disagree = Strongly/Slightly Disagree*

*Neutral = Neither Agree nor Disagree*

*Unsure or n/a = Unsure/no answer*