



Survey on strengthening New Zealand's protection system for heritage buildings

Ministry for Culture and Heritage June 2018

Before you begin the survey

We would appreciate if you could identify your interest in completing the survey:

Architectural Centre - founded 1946, Incorporated Society, we advocate for a better built environment, and good design.
Our comments are primarily focussed on Wellington and references to the council refers to Wellington City Council unless otherwise indicated.

Identification of heritage buildings

Please indicate the extent to which you agree or disagree with each of the following statements about the **identification of heritage buildings in New Zealand**.

Please tick [✓] one response per statement.

Q1	The Heritage New Zealand listing process aligns effectively with council scheduling processes.					
	Strongly disagree	Slightly disagree	Neither agree nor disagree	Slightly agree	Strongly agree	Unsure
	✓					
<p>Comment:</p> <p>a. There is an ad hoc or random relationship between the HNZ list and the WCC District Plan.</p> <p>b. It appears that often having a building listed on the DP means it is a low priority for HNZ listing.</p> <p>c. This can raise questions at council hearings (e.g. resource consent hearings to demolish listed buildings, or (as with the Gordon Wilson Flats plan change (DPC81)) - in relation to RMA references to HNZ listing (e.g. RMA s74(2)(b)(ia) - where "<i>shall have regard to ... any ... relevant entry on the New Zealand Heritage List/Rarangi Korero required by the HNZPTA 2104</i>" is read as "<i>shall have regard to ... whether or not there is any ... relevant entry on the New Zealand Heritage List/Rarangi Korero required by the HNZPTA 2104</i>" - that is to say that any lack of an HNZ listing raises questions as to why the building isn't listed. Sometimes there appears to be a perception that a HNZ listing represents national significance and council listing represents local significance.</p> <p>d. There can be different criteria for listing between a Regional Policy Statement/District Plan and the HNZPTA. Consistent criteria and terminology would strengthen the system - though this might not be appropriate for Māori heritage.</p> <p>e. We think an alignment between identification and protection is essential. An isolated system of identification (as per the HNZPTA) confuses the public and many in the system assume consistent criteria, and so do not appreciate legal nuances such as historic place (HNZPTA terminology) vs historic heritage (RMA terminology). Often experts end up referring to built heritage which adds another level of confusion.</p> <p>f. If the current system is retained then we propose that any HNZ listing should be treated in the RMA as if it is listed on the relevant DP.</p>						

Q2	The way the Heritage New Zealand listing process works is clear.					
	Strongly disagree	Slightly disagree	Neither agree nor disagree	Slightly agree	Strongly agree	Unsure
			✓			

Comment:

- a. There are some ambiguities and apparent inconsistencies, including in relation to:
- i. representativeness (e.g. low numbers of modernist buildings represented on the list)
 - ii. the large backlog of applications for HNZ listing and timeline for processing these
 - iii. the use of NZH policy regarding prioritising applications for listing, which can undermine the NZHPTA.
- b. Perhaps the clearest example is the inconsistency (in our view) of the HNZ processes for listing and for reviewing an existing list entry. These are covered in HNZPTA ss67 and 78.

c. S67(4)(a) states, for an application to list a place:

*"If Heritage New Zealand Pouhere Taonga is satisfied that an application is supported by sufficient evidence, it **must proceed to determine** the application **by—publicly notifying the application** ..."* (emphasis added).

d. S78(6) states, for an application to review a listing:

*"A decision on an application for review of an entry must be made by Heritage New Zealand Pouhere Taonga or the Council, as appropriate, **not later than 12 months** after the date of its receipt by Heritage New Zealand Pouhere Taonga or the Council."*

e. Currently HNZ have interpreted this as meaning they must prioritise reviewing listings over applications to list. HNZ have told us that: *"to comply with the Act, public applications to review existing List entries can interrupt planned new listings as the Heritage New Zealand Board ... are required to make a decision on a review application within 12 months of its receipt."* (HNZ letter to Architectural Centre 18 January 2018).

f. We interpret the Act as intending applications for new listings to be processed within a reasonable time. In practice they are backlogged, with seemingly no urgency felt by HNZ. We are aware of applications which are at least 4 years old, with no sense that HNZ are proceeding with applications in any fashion. The lack of a specific timeframe in the Act has been exploited by HNZ to not process applications. The HNZ policy of prioritising appears to us to contradict the Act's *"must proceed to determine,"* which to us suggests HNZ must determine to accept or reject each application without prioritising some and deferring decisions on others. The HNZ policy states, for example:

"HNZPT undertakes a preliminary assessment and prioritisation of all applications received at least annually, to determine which will go forward as proposals for entry on the List."

7.11 HNZPT's assessment and prioritisation of applications takes into account the needs for research, assessment and consultation, the desirability of generating agreement and support and other factors such as risk, alignment to HNZPT's strategic outcomes, the impact that a particular entry may have, and any potential efficiency associated with progressing an entry." (HNZ Statement of General Policy: the administration of the NZH List/Rārangī Kōrero (<http://www.heritage.org.nz/resources/statements-of-general-policy>) p. 13).

g. Additionally, it appears perverse to us that the internal HNZ decision to put applications forward as proposals (c.f. the Act's requirement *"to determine by-publicly notifying the application"*), is anticipated to take as long as a (lesser in our view) decision to review an existing (and so protected) listing.

h. Another example is HNZ's apparent reluctance to self-nominate listings. S67(1) of the HNZPTA states *"Heritage New Zealand Pouhere Taonga ... may apply to Heritage New Zealand Pouhere Taonga to enter a historic place or historic area on the New*

Zealand Heritage List/Rārangī Kōrero." Despite this we have found ourselves in discussions with HNZ where they state that they could not list a property that they know has high heritage values because no one has nominated it. S67(1) appears to us to make this excuse invalid, additionally, of course, HNZ has a statutory obligation to: "*to identify, record, investigate, assess, list, protect, and conserve historic places ...*" and "*to advocate the conservation and protection of historic places ...*" etc., which we assume requires a proactive disposition.

Q3 Having more than one system for recognising and protecting heritage buildings makes the process of protecting heritage buildings too complex.

Strongly disagree	Slightly disagree	Neither agree nor disagree	Slightly agree	Strongly agree	Unsure
		✓			

Comment:
a. We are of the view that having both the HNZ listing and RMA/council listing processes:
i. causes confusion
ii. wastes resources
iii. obscures responsibility
iv. creates gaps, which means important heritage sites are neither identified nor protected.
b. There needs to be a smarter system which includes independent monitoring and accountability/reporting.

Q4 It's acceptable for some heritage buildings to not be identified by Heritage New Zealand.

Strongly disagree	Slightly disagree	Neither agree nor disagree	Slightly agree	Strongly agree	Unsure
✓					

Comment:
a. With the current system it is not acceptable for heritage buildings to not be identified by HNZ. This is because it is difficult enough to protect buildings which have heritage protection, and because of RMA references to HNZ listing. This is despite the broader definition of historic heritage in RMA s2 which envisages the possibility of a building having heritage values and being unlisted.

Q5 How, if at all, could the Heritage New Zealand listing process be improved to make it more effective, and ensure that community members participate in the process?

a. HNZ sits on applications even when sufficient information is supplied in order to determine a listing. HNZ must be compelled to comply with the HZNPTA s67(4)(a).
i. If there is sufficient information HNZ must proceed to determine the application, and whether or not a listing should occur. There is no requirement for HNZ to do additional work, if sufficient information is provided (and this indicates potential for listing), prior to notification, and a public submission process can challenge the validity of the listing.
ii. If there is insufficient information provide HNZ must reject the application and state that insufficient information is the reason for the rejection.

- iii. If HNZ is of the view a place potentially warrants listing it must investigate this and produce sufficient information to determine whether or not a listing ought to occur in accordance with s67(1).
- b. The community tends to be interested in buildings when they are under threat. This makes it difficult to rally interest in listing prior to this. In addition, especially in relation to modernist buildings, aesthetically-challenging buildings are not popular with the public.
- c. Perhaps an annual public participation campaign, like the Forest and Bird "Bird of the Year" public vote, would be productive - especially if one focussed on towns rather than the main centres.
- d. It may be that HNZ's strength is as an expert conservation/preservation advisory rather than a listing agency, and listing should be the function of a new/different organisation.

Protection of heritage buildings

Please indicate the extent to which you agree or disagree with each of the following statements about councils' **protection of heritage buildings in New Zealand**.

Please tick [✓] one response per statement.

Q6 It's acceptable for different councils to use different approaches to identify, assess and protect heritage buildings.

Strongly disagree	Slightly disagree	Neither agree nor disagree	Slightly agree	Strongly agree	Unsure

Comment:
 a. Context is often important in determining heritage values. Skillful design of national criteria is possible - but it does need to be skillful.
 b. It is highly likely that Māori heritage requires iwi- or hapu-specific priorities.

Q7 Councils need more guidance on best-practice methods for protecting heritage buildings.

Strongly disagree	Slightly disagree	Neither agree nor disagree	Slightly agree	Strongly agree	Unsure
		✓			

Comment:
 a. Yes, we strongly agree that councils need best-practice methods for protecting heritage buildings
 b. Our experience is that council officers know these, but many councillors often do not.

Q8 The council scheduling process ensures the timely protection of heritage buildings.

Strongly disagree	Slightly disagree	Neither agree nor disagree	Slightly agree	Strongly agree	Unsure
	✓				

Comment:

- a.** The cumbersome and expensive nature of a District Plan Change means that it is not possible to easily add heritage buildings. This means an effective HNZ process is critical for the HNZ process to be justified.
- b.** Resource Consent rules which enable the demolition of listed buildings mean it is often easier to remove (through demolition) listed buildings than it is to add listed heritage buildings.
- c.** This situation means that the 2014 removal of interim registration with the repeal of the NZHPT Act (s26) has been a significant backward step.

Q9

The council scheduling process works well for Māori heritage buildings.					
Strongly disagree	Slightly disagree	Neither agree nor disagree	Slightly agree	Strongly agree	Unsure
Comment: We have no knowledge/expertise in this area.					

Q10

The Heritage New Zealand listing process helps councils in their decision-making on protecting buildings.					
Strongly disagree	Slightly disagree	Neither agree nor disagree	Slightly agree	Strongly agree	Unsure
✓					
Comment: a. Council resources in heritage appear to be stretched and often reactive. This can mean that because a building is listed by HNZ it is a lower priority than other buildings when council officers are prioritising their workload. b. We understand that some (but not all) councils automatically list HNZ listed sites (e.g. Dunedin), and so use HNZ as the prime identifiers of heritage. c. An amendment to the RMA which requires sites with HNZ listing to be treated as if they are listed on the relevant District Plan's heritage schedule would assist heritage protection. d. Our experience is that HNZ listing can be quite patchy. This includes the lack of protection for important heritage sites including the Wellington Teachers Training College, Karori and Gordon Wilson Flats. We are aware of HNZ doing some initial work on researching the Toomath-designed Karori Campus in the years prior to Bill Toomath's death in early 2014, yet it is only after some pressure that HNZ has finally listed the site. The site is not protected by the WCC DP.					

Q11

How, if at all, could the council scheduling process be improved to make it more effective?					
a. an ability for provisional listing, though if the HNZ process was effective this might not be needed b. if both HNZ and RMA processes are to be retained, they need to complement each other.					

Heritage protection mechanisms

Please indicate the extent to which you agree or disagree with each of the following statements about **heritage protection mechanisms**.

Please tick [✓] one response per statement.

Q12	There is enough guidance available on how heritage protection mechanisms can be used to protect buildings.				
Strongly disagree	Slightly disagree	Neither agree nor disagree	Slightly agree	Strongly agree	Unsure
				✓	
<p>Comment:</p> <p>a. an NPS on Heritage Sites would assist.</p> <p>b. There is sufficient guidance for motivated heritage protection organisations. We do not have these, and, because of this (whether due to lack of resources, other priorities, politics), more directive (reassuring) guidance is needed.</p> <p>c. HNZ appears to us to be ineffective in terms of heritage advocacy in difficult cases. If an owner wants their building protected this is facilitated. If an owner wants the heritage listing reviewed to increase their likelihood of getting funding for earthquake strengthening this is facilitated. When things are less straightforward both council and HNZ hesitate and are tentative in their actions to effect protection regardless of evidence of heritage values.</p> <p>d. Whether an owner supports heritage protection for their building should not be a consideration when legislating heritage protection.</p> <p>e. If a site warrants protection it should be protected.</p>					

Q13	Heritage protection mechanisms are currently being used appropriately to protect buildings.				
Strongly disagree	Slightly disagree	Neither agree nor disagree	Slightly agree	Strongly agree	Unsure
✓					
<p>Comment:</p> <p>a. The situation that has been able to happen with the Wellington Teachers Training College, Karori would strongly suggest that heritage protection mechanisms are not currently being used appropriately. We consider political hesitancy has played a significant part in this, with HNZ not wanting to upset owners.</p> <p>b. A review of resourcing at council and HNZ is needed, including a review of the structures which support the different aspects of government-funded heritage protection (i.e. preservation/conservation advisory services; identification and protection; assessment of proposed developments affecting heritage sites; policy development; Māori heritage recognition and protection) and how these are supported in HNZ, council and MCH and whether separate entities for each of these is needed. Identification of conflicts of interest, when these functions are combined in the same organisation, is also needed.</p> <p>c. The long time between DP Reviews also impacts on this - though we note we did ask WCC for the Karori campus to be listed in the 2008 District Plan Change 58 process, the resulting Committee report recognising our suggestions had been identified by the council, and that "<i>plans are now in place for the on-going research and continued expansion of items that are listed in the District Plan.</i>" As is well-known the Karori campus is yet to be listed on the DP.</p>					

Q14	More heritage protection mechanisms are needed.					
	Strongly disagree	Slightly disagree	Neither agree nor disagree	Slightly agree	Strongly agree	Unsure
	✓					
<p>Comment:</p> <p>a. There are too many flavours of heritage protection/recognition (Covenant, Heritage Order, Listing, Landmark List, HNZ vs councils) and a single system with fewer options is needed. A more elegant structure/system is needed.</p> <p>b. An important issue is the lack of courage to use existing mechanisms.</p> <p>c. The use of interim protection as existed in the NZHPT Act s26 would be a useful additional mechanism.</p>						

Q15	How, if at all, could the <u>existing</u> heritage protection mechanisms be improved to make them more effective?					
<p>a. using them.</p> <p>b. a greater awareness of protection as distinct from identification mechanisms.</p>						

Crown management of heritage buildings

Please indicate the extent to which you agree or disagree with each of the following statements about **Crown management of heritage buildings**.

Please tick [✓] one response per statement.

Q16	The Policy for Government Departments' Management of Historic Heritage 2004 provides useful guidance for protecting Crown-owned heritage buildings.					
	Strongly disagree	Slightly disagree	Neither agree nor disagree	Slightly agree	Strongly agree	Unsure
				✓		
<p>Comment:</p> <p>a. The issue appears to us to be not the usefulness of the guidance but rather the lack of use of the guidance by government departments.</p> <p>b. The lack of protection and respect for the modernist heritage of the government precinct (e.g. Bown State Building etc.) demonstrates that current guidance has little influence as heritage protection.</p> <p>c. We also can see this as likely in relation to innovative state housing in the 1950s which produced a range of designs, which are likely to all be demolished with the current redevelopment frenzy. This is not to say increasing the provision of housing is not important, but there is need to identify the housing typologies and design types (e.g. Star flats) and evaluate their heritage significance and whether an example of each type should be retained as part of the current review of Housing NZ properties.</p>						

Q17	The Crown Land Disposal process works well to protect heritage buildings.					
	Strongly disagree	Slightly disagree	Neither agree nor disagree	Slightly agree	Strongly agree	Unsure
<p>Comment:</p>						

a. We do not have significant experience with the Crown Land Disposal.
b. As we understand it, the process for evaluating heritage value is insufficient. We are particularly thinking of the extensive range of NZ heritage present in local police stations, schools, hospitals, post offices, libraries and other social infrastructure which pass out of government hands and represent important historical and community values of NZ society.
c. We acknowledge that HNZ plays a role in evaluating sites subject to the Crown Land Disposal.

Q18 It's acceptable for some publicly-owned heritage buildings to not be identified by Heritage New Zealand or protected by councils.

Strongly disagree	Slightly disagree	Neither agree nor disagree	Slightly agree	Strongly agree	Unsure
✓					

Comment:
a. The very recent example of Wellington Teachers Training College, Karori comes to mind and demonstrates to us that it cannot be assumed that government ownership gives any additional respect for heritage values.
b. We also refer to our comments in **Q16(b) & (c)** above.
c. The Housing NZ Corp. commissioned heritage assessment of Gordon Wilson Flats (May 2010) concluded that the GWF "*have national significance for their design and construction methods and for their social values.*" We note that deferred maintenance of GWF during its HNZ ownership which we believe has significantly contributed to its current earthquake prone status. This indicates knowledge of heritage values do not correspond with care of heritage values in some government departments.

Q19 Having heritage buildings in public-ownership is a good way to protect them.

Strongly disagree	Slightly disagree	Neither agree nor disagree	Slightly agree	Strongly agree	Unsure
	✓				

Comment:
a. We refer to our answer in **Q18** above.

Q20 It's acceptable for publicly-owned heritage buildings to be managed in different ways, depending on which organisation owns them.

Strongly disagree	Slightly disagree	Neither agree nor disagree	Slightly agree	Strongly agree	Unsure
			✓	✓	

Comment:
a. We support adaptive reuse which requires situation specific responses.
b. If heritage values and corresponding material fabric, planning, design details, qualities etc. are properly and explicitly identified then there is potential for a range of uses and heritage management to occur.

Q21	<p>How, if at all, could Crown management of heritage buildings be improved to make it more effective?</p> <p>a. Proactively require the use the Policy for Government Departments' Management of Historic Heritage 2004.</p> <p>b. Proactively promote and create awareness of the policy.</p> <p>c. Regularly monitor department management of historic heritage.</p>
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Responsibilities and incentives for private owners of heritage buildings

Please indicate the extent to which you agree or disagree with each of the following statements about **responsibilities and incentives for private owners of heritage buildings**.

Please tick [✓] one response per statement.

Q22	Heritage building owners have enough information about their responsibilities to care for their buildings as outlined in the Building Act 2004					
	Strongly disagree	Slightly disagree	Neither agree nor disagree	Slightly agree	Strongly agree	Unsure
		✓				
<p>Comment:</p> <p>a. We consider this to be unlikely.</p> <p>b. We note the use (or threat) of demolition by neglect, and the cases where buildings with heritage protection are bought (e.g. Erskine College, Gordon Wilson Flats) and then owners apply to demolish them as suggesting either insufficient knowledge or disregard of this.</p>						

Q23	The current responsibilities of private owners are appropriate given the costs of owning a heritage building.					
	Strongly disagree	Slightly disagree	Neither agree nor disagree	Slightly agree	Strongly agree	Unsure
	✓					
<p>Comment:</p> <p>a. We note research indicating that economic return on heritage buildings often accrues to the community (local or national government) rather than the building owner (e.g. Donovan Rypkema, Place Economics; also English Heritage), while costs are borne exclusively by building owners.</p> <p>b. We also note the lobbying by Colliers International (2010) of the Minister of Revenue (and other ministers) to revisit the tax regime to encourage investors to strengthen their historic buildings.</p> <p>c. This lobbying was responded to by Hon. Peter Dunne stating that "<i>from a tax policy perspective, allowing a deduction for the cost of upgrading and earthquake strengthening heritage buildings, when these costs ought to be capitalised against the value of the building, would create a distortion in favour of investment in heritage buildings.</i>"</p>						

Q24	There are sufficient financial incentives available to support private owners to maintain and upgrade heritage buildings.					
	Strongly disagree	Slightly disagree	Neither agree nor disagree	Slightly agree	Strongly agree	Unsure
	✓					
Comment: a. See our comments Q23 above.						

Q25	There are <u>non-financial</u> incentives available that effectively support private owners to maintain and upgrade heritage buildings.					
	Strongly disagree	Slightly disagree	Neither agree nor disagree	Slightly agree	Strongly agree	Unsure
				✓		
Comment: a. There is potential for non-financial incentives to support private owners. b. Public recognition (e.g. professional/industry awards) and associated publicity may have commercial value for corporate owners. c. Exemption from a strict Building Act compliance can also provide financial support, evaluated on a case-by-case basis.						

Q26	If there was increased protection for heritage buildings, costs for managing heritage buildings would likely increase. Who should pay for these costs? This could include central government, councils, private owners or others.					
Comment: a. There needs to be evidence-based analysis of the economics and finances of maintenance, earthquake strengthening and compliance costs to properly understand the who benefits and how, and the true cost in order to determine this. b. A standard for properly, independently and transparently modelling the economic costs and benefits of demolition vs maintenance vs earthquake strengthening for resource consent applications (etc) would assist in evaluating applications. This would likely include an appreciation of understanding the reasonable level of costs to maintain a building, and whether or not these are higher or lower in any specific case of a heritage building. c. An increasing appreciation of sustainability and carbon costs of demolition also needs to be evaluated. d. Sensible application of Building Act compliance and exemptions is also important to consider.						

Q27	What suggestions, if any, do you have for monitoring the management of privately-owned heritage buildings to better support the active maintenance of heritage buildings?					
a. identification and protection in a nationally consistent, simplified structure overseen by one organisation (with exceptions noted in Q14(a) above). b. proactive discouragement of deferred maintenance. c. monitoring of degree of heritage protection at council level and HNZ (i.e. does protection result in the survival of buildings)						

Buildings with heritage value for Māori

Please indicate the extent to which you agree or disagree with each of the following statements about **buildings with heritage value for Māori**.

Please tick [✓] one response per statement.

Q28 Councils and kaitiaki need more guidance and support about options for protecting and recognising Māori heritage buildings.

Strongly disagree	Slightly disagree	Neither agree nor disagree	Slightly agree	Strongly agree	Unsure
Comment: a. We have no knowledge/expertise in this area.					

Q29 Marae buildings should have recognition within our heritage system for their cultural value.

Strongly disagree	Slightly disagree	Neither agree nor disagree	Slightly agree	Strongly agree	Unsure
Comment: a. We have no knowledge/expertise in this area.					

Q30 Current building regulations take the cultural values of Māori buildings into account appropriately.

Strongly disagree	Slightly disagree	Neither agree nor disagree	Slightly agree	Strongly agree	Unsure
Comment: a. We note that NZ building regulations are fundamentally Euro-centric and so are unlikely to take cultural values of Māori into account.					

The New Zealand heritage protection system as a whole

Please tick [✓] one response per statement.

Q31 The New Zealand heritage protection system as a whole currently recognises and protects the buildings that New Zealand communities and experts value.

Strongly disagree	Slightly disagree	Neither agree nor disagree	Slightly agree	Strongly agree	Unsure
✓					
Comment: a. The current system enables significant buildings/sites to fall through its administrative gaps.					

- b.** The current system is ad hoc, and inconsistent, and subject to politicisation.
- c.** The current situation appears to be biased to developers wanting to demolish heritage buildings.

Q32 There are different values associated with protecting heritage buildings. What in your view are the most important of the following? Please rank from most important (1) to least important (4).

Economic benefits	
Existence for future generations	
Sense of place / identity	
Understanding of the past	
Comment: a. These are all important, but may have varying degrees of importance for specific heritage buildings.	

Q33 What are the most important issues that need to be addressed within New Zealand's system for recognising and protecting heritage buildings?

- a.** the impotency of HNZ, and the lack of professional funded heritage advocacy in NZ.
- b.** demolition by neglect.
- c.** the availability of heritage economics and QS expertise to support heritage advocates, given that much of this work falls on voluntary non-profit groups.
- d.** funding for volunteer non-profit groups advocating for heritage buildings in legal proceedings. We note the MfE ELAF does not support council hearings, or higher courts, and that it is unlikely to support heritage cases which are not perceived by the MfE ELAF assessors to be of national importance.
- e.** protection of modernist buildings.
- f.** timely identification and protection of heritage.
- g.** normalisation of the use of heritage orders.
- h.** a National Policy Statement on Heritage Sites.
- i.** media representations of heritage cases.

Q34 What aspects are working well within New Zealand's system for recognising and protecting heritage buildings?

- a.** some buildings are protected, and some owners love and look after their heritage buildings.

Q35 What aspects cannot be changed within New Zealand's system for recognising and protecting heritage buildings?

- a.** all aspects can be changed.

Q36 Are there any other comments you would like to make on New Zealand's system for recognising and protecting heritage buildings?

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