Heritage New Zealand Pouhere Taonga submission on RMA Issues and Options Paper

Heritage New Zealand Pouhere Taonga is an autonomous Crown Entity with statutory responsibility under the Heritage New Zealand Pouhere Taonga Act 2014 (HNZPT Act) for the identification, protection, preservation and conservation of New Zealand’s historical and cultural heritage. Heritage New Zealand is New Zealand’s lead historic heritage agency.

This submission draws on investigations reported on in the Heritage New Zealand Pouhere Taonga triennial national assessments of the heritage provisions in district and regional plans (copy attached). It also draws on recent Ministry for Culture and Heritage Manatū Taonga policy investigations into strengthening the system for protecting heritage, including the role of national direction and heritage orders under the Resource Management Act 1991 (RMA) and mechanisms to address demolition by neglect.

Pages 13 to 19 of the Resource Management Review Panel Issues and Options Paper identify many of the issues that have resulted in the RMA failing to provide effective protection for historic heritage, and failing to respond in a timely fashion to issues faced by owners of historic heritage. Some of these issues would require a legislative solution, others could be addressed through a national policy statement (e.g. inadequate policies and objectives) or national planning standards (e.g. consistent definitions and criteria for heritage assessment) and some relate to resourcing of local authorities and heritage owners.

This submission sets out a list of key issues for the conservation of historic heritage under the RMA and then provides detailed responses to the questions set out in the Issues and Options Paper. Heritage New Zealand would welcome the opportunity to discuss these issues with the Resource Management Review Panel.

Key issues limiting the effectiveness of the identification and protection for historic heritage under the RMA include:

- A combination of the RMA and HNZPT Act removed some previous protections for historic heritage such as interim registration providing interim protection for historic heritage, and limited the role of the New Zealand Heritage List Rārangi Kōrero (NZ Heritage List) to being a source of information for the purposes of the RMA rather than for the purpose of

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assisting the protection of heritage.

- The RMA introduced financial risks for heritage protection authorities: The heritage order provisions of the RMA are cumbersome and the potential for the Environment Court to require the heritage protection authority to purchase the place or withdraw the notice of requirement has meant that there have been very few heritage orders since 1991.

- The lack of national direction on historic heritage as a section 6 matter of national importance, as identified in recent policy development work undertaken by the Ministry for Culture and Heritage.

- The lack of national direction or guidance on balancing development and environmental protection.

- Highly variable approaches to historic heritage in district plans, and many plans do not comply with good practice standards.

- The disconnect between the NZ Heritage List and district and regional plan schedules of historic heritage and cultural sites, as identified in Heritage New Zealand Pouhere Taonga triennial assessments of heritage provisions in RMA policy statements and plans, resulting in inadequate protection for some NZ Heritage List sites.

- Many plans do not adequately recognise and protect Māori heritage: while 72% of plans met the Heritage New Zealand Pouhere Taonga standard for rules controlling the demolition of built heritage, only 23% of plans had rules for Māori heritage that met the standard, and seven plans (11%) had no rule protecting Māori heritage.

- Planners assume that archaeological sites are protected by the archaeological authority provisions under the HNZPT Act, however these provide a regulatory system for modifying or destroying archaeological sites and recovering archaeological information, with a small number of sites protected through conditions on an authority. District plan protection is important for the most significant archaeological sites. The majority of archaeological sites are also Māori heritage sites. Together with the poor recognition for Māori heritage generally in district plans as noted above, this presumption means that Māori heritage is particularly vulnerable.

- Limitations of the listing and scheduling process historically for Maori heritage means there is low representation and a disconnect between what Māori consider to be their heritage vs wider heritage recognition.

- Need for new tools for the recognition of Maori heritage sites and marae (as a distinct cultural heritage type) consistently in a manner that enables active protection of these taonga.

- Lack of understanding of the Māori cultural requirements for intellectual property protection and the requirements for public availability of information of both district and regional plan schedules and the NZ Heritage List.

- There is a lack of appropriate mechanisms for the recognition and protection of Māori cultural landscapes.

- The current system does not adequately recognise the higher level of risk to Māori heritage places in relation to climate change adaptation and natural hazards.

- The measures that give fuller effect to Te Tiriti o Waitangi understood as partnership and Article 2 therein regarding rangatiratanga over taonga are not being used, resulting in lower effectiveness of the RMA for Māori interests and engagement.

- Nature/natural heritage is an intrinsic and inextricable part of Māori historic and cultural heritage, hence environment issues (and s.6 RMA) are also Māori heritage issues.

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2 ibid
• While most regional policy statements contain objectives and policies directing territorial authorities to identify and protect historic heritage of local significance, a number of local authorities only schedule historic heritage already entered on the NZ Heritage List.

• The length of time taken for plan reviews and plan changes, so that new heritage listing can be unprotected for several years, and new provisions such as RMA amendments to provide opportunities for iwi involvement in planning can take years to implement.

• The long planning cycle also means that plans are slow to respond to issues facing historic heritage, such as requirements for earthquake strengthening and increasing urban development pressure: both low growth and accelerated growth can increase the risk of heritage buildings being demolished or sites destroyed.

• No provisions of the RMA or Building Act 2004 allow local authorities to deal proactively with demolition or degradation of historic heritage buildings and sites through neglect. The Building Act provisions for dangerous and insanitary buildings and earthquake prone buildings may make the option of demolition attractive to some owners if either the land is more valuable vacant or there is no chance of recovering upgrade costs.

• The lack of co-ordination between the provisions of the Heritage New Zealand Pouhere Taonga Act (HNZPT Act) and protection of historic heritage in district and regional coastal plans, particularly the presumption in many district plans that archaeological sites are protected under the HNZPT Act and need not be protected in district plans.

• The RMA makes no clear provision for regional plans (other than regional coastal plans) to protect historic heritage: for example regional councils could not make rules prohibiting discharges that affect cultural heritage.

• Outside of the main centres there is little monitoring of activities and very little reporting on the effectiveness of plan provisions (section 35).

• The clear delineation of responsibilities between territorial authorities (land-based) and regional councils in the coastal marine area makes integrated management of the coastal environment, as envisaged by the NZCPS, difficult.

• Lack of recognition of the positive contribution that historic heritage makes to people’s sense of place, connectedness, identity, and to the quality of urban environments.

• Under-resourcing of territorial authorities and lack of funding for heritage owners.

Heritage New Zealand Pouhere Taonga has provided responses to the questions posed in the Panel’s Issues and Options paper in the attached table.

We would appreciate the opportunity to discuss these issues directly with the Panel and hope that this can be arranged.
### Whakarāpopoto o ngā Pātaig: Responses

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<tr>
<th>Issue</th>
<th>Questions</th>
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<td><strong>Issue: 1</strong></td>
<td>Legislative architecture</td>
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<td>1. Should there be separate legislation dealing with environmental management and land use planning, or is the current integrated approach preferable?</td>
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The identification and protection of historic heritage spans both environmental management and land use planning. It both contributes to people’s sense of place and needs to be protected from inappropriate activities and from hazards. It is often confused with amenity and while historic heritage contributes to amenity values, the values are much broader and the resource is not “renewable” – once an archaeological site or site of significance to Māori is destroyed, the heritage values cannot be restored. Separate legislation risks heritage conservation falling through the cracks.

Risks to historical and cultural heritage arise from both the on-site activities of landowners or occupiers, activities on adjacent sites, and from external factors such as natural hazards. While the former may be better addressed through land use planning (provided that there is a clear requirement to protect heritage) the latter is an environmental management issue.

Historic heritage is a physical resource, often part of the built environment, and as such makes a positive contribution to urban environmental quality. It is also part of the natural environment, in particular archaeological sites and sites of significance to Māori, the settings of heritage places, and aspects of the natural environment with spiritual and cultural value.

<table>
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<th>Issue: 2</th>
<th>Purpose and principles of the Resource Management Act 1991</th>
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<td></td>
<td>2. What changes should be made to Part 2 of the RMA? For example:</td>
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<td>3. Does s5 require any modification?</td>
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<td>4. Should ss. 6 and 7 be amended?</td>
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<td>5. Should the relationship or ‘hierarchy’ of the matters in section 6 and 7 be changed?</td>
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<td>6. Should there be separate statements of principles for environmental values and development issues (and in particular housing and urban development) and, if so, how are these to be reconciled?</td>
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<td>7. Are changes required to better reflect te ao Māori</td>
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<td>8. What other changes are needed to the purpose and principles in Part 2 of the RMA?</td>
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The protection of historic heritage as a matter of national importance in section 6 is important when Heritage New Zealand Pouhere Taonga undertakes its advocacy function for historical and cultural heritage, as provided for in the HNZPT Act. It links to section 74 of the HNZPT Act, which requires local authorities to have particular regard to recommendations concerning historic areas and wāhi tapu areas, and sections of the RMA requiring plan makers to have regard to any relevant entry on the NZ Heritage List.

Q 3: Section 5 needs to set out the long-term strategic direction, a requirement to protect and enhance the environment, while providing for the needs of present and future generations, and recognise and the trade-offs anticipated. It should reflect the language used in current high level government policies such as the living standards framework. Requirements for national direction could be covered in the sections.
setting out the process for national direction.

A useful hierarchy of obligations is set out in the work the Ministry for the Environment has done with the Iwi Leaders Group and Kahui Wai Māori in recent years to embed Te Mana o te Wai within the legal framework for managing freshwater resources:

i. The first obligation is to protect the health and mauri of nature.

ii. The second obligation is to ensure that the essential needs of people are met. This includes ensuring safe access to drinking water, and allowing for customary uses.

iii. The third obligation is to enable other consumptive use, provided such use does not adversely impact the mauri of nature.

Q4, Q5 and Q7: Sections 6 and 7 establish matters of national importance and other matters to “have particular regard to”. This sets out a hierarchy of priorities. It should be noted that every matter of national importance set out in section 6 is a Māori heritage issue. Examples of specific Māori heritage issues related to matters of national importance set out in section 6:

- Outstanding natural features and landscapes include maunga korero, limestone country containing rock art, significant awa
- The protection of indigenous vegetation and habitats and maintenance and enhancement of access along the coastal marine area, lakes and rivers is important for the ability to access traditional materials and access to mahinga kai
- Cultural sites and marae are particularly vulnerable to natural hazards, as discussed below.

Q 5: for the reasons above, if the structure of Part 2 is retained, 7(a) Kaitiakitanga should be elevated to section 6 as a matter of national importance. This would reinforce Treaty obligations and the obligation of local authorities to engender a partnership approach, give weight to iwi management plans and implement recent RMA provisions such as Mana Whakahono ā Rohe. See below for further discussion on iwi participation.

Issue: Recognising Te Tiriti o Waitangi / the Treaty of Waitangi and te ao Māori

9. Are changes required to s8, including the hierarchy with regard to ss. 6 and 7?

10. Are other changes needed to address Māori interests and engagement when decisions are made under the RMA?

Q9: Many district plans do not deal effectively with Māori heritage: less well-resourced local authorities have struggled to develop schedules of Māori heritage, and the rules applying to these schedules may not be appropriate or effective. Māori built heritage is badly served: only one plan specifically recognises and protects marae (also see Q19). Stronger direction is required in the legislation, and national direction to assist local authorities carry out this function. The hierarchy of sections 6 and 7 is discussed above, particularly the need to elevate section 7(a) kaitiakitanga.

The RMA section 8 only requires that local authorities and others “take into account” the principles of the Treaty of Waitangi. A stronger direction, such as is found in other legislation (e.g. Conservation Act, HNZPT Act) to “give effect” to the Treaty may encourage local authorities to work together with iwi/hapū, take account of iwi management plans, and recognise and protect the full range of Māori heritage.
Q 10: The report notes that since 1991, no RMA functions have been transferred to iwi authorities under section 33 of the RMA. Nor have any iwi authorities been approved as a Heritage Protection Authority under subsection 188 (p.17). There has been limited use of provisions for joint management arrangements under section 36B. Both capability and capacity issues within councils and iwi authorities and legislative barriers have limited use of these provisions. In addition, the long planning cycles have slowed the potential uptake of provisions designed to facilitate the involvement of iwi in planning processes.

The issue of iwi as potentially acting as Heritage Protection Authorities is something that has been suggested. However, a key issue preventing the use of heritage orders, the risk of the Environment Court directing the HPA to purchase the land or withdraw the notice of requirement, would need to be addressed.

Issue: 4

Strategic integration across the resource management system

| 11. How could land use planning processes under the RMA be better aligned with processes under the LGA and LTMA? |
| 12. What role should spatial planning have in achieving better integrated planning at a national and regional level? |
| 13. What role could spatial planning have in achieving improved environmental outcomes? |
| 14. What strategic function should spatial plans have and should they be legally binding? |
| 15. How should spatial plans be integrated with land use plans under the RMA? |

Q11: From the point of view of heritage protection, there can be a disconnect between the objectives and policies in a district plan, and the provisions of a LGA long term or annual plan. A stronger connection would ensure that actions identified in the district plan are identified and funded in the long term plan. For example, a district plan policy to provide incentives for the retention of heritage usually needs to be backed up with funding in the long term plan.

Heritage New Zealand Pouhere Taonga sees spatial planning as being critical component of a revised resource management framework and an important aspect of managing impacts on historic heritage.

Q12 and 13: Spatial planning has the potential to provide a more integrated approach to land use planning. It could identify and address conflicts between aspirations for land use/development and for protection of sensitive areas or sites. Spatial planning could also take account of the limitations posed by hazards, and highlight areas where mitigation or adaption is needed, for example in areas prone to flooding, landslips, fire, invasive species and coastal erosion. Spatial planning could also provide a more integrated system for the management of the coastal environment, currently fragmented by the limitations on territorial authority and regional council responsibilities. It could provide greater recognition and ultimately protection of Māori cultural landscapes.

The development of spatial plans will require collaboration and cooperation between local authorities and other agencies, including iwi/ hapū authorities. Spatial plans need to take full account of iwi / hapu aspirations, including for protection of cultural heritage. They will need to take account of iwi/ hapū planning documents and many iwi/hapū require assistance and resources to develop these crucial planning documents. The proposed NPS for Taonga Species includes proposals for iwi-led identification processes, and this has implications for spatial planning work.

Q 14 and 15: to be effective, spatial plans need to have statutory weight, provide
Proactively released

They could have similar weight to regional policy statements, to be given effect to by district and regional plans. Where sites or places are identified in spatial plans as needing protection, there is scope for this to be binding, as a type of covenant or heritage order. The potential for the use of a prohibited activity status needs to be investigated, and barriers to this addressed.

**Issue:** Addressing climate change and natural hazards

16. Should the RMA be used as a tool to address climate change mitigation, and if so, how?

17. What changes to the RMA are required to address climate change adaptation and natural hazards?

18. How should the RMA be amended to align with the Climate Change Response Act 2002?

Historic heritage, in particular Māori heritage, is at risk from natural hazards such as climate change and associated changes in the environment, including flooding, severe climate events, sea level rise, coastal erosion, storm surges, and accelerated rate of degradation due to changing conditions. Historic heritage is also at risk from earthquake, fire, flood, land instability, storms and other natural hazards as well as human-induced changes. Many of these hazards will be exacerbated by climate change.

For example, in general flooding is a relatively frequent natural hazard event given marae and kainga sites are often traditionally located next to rivers for transport, water and fisheries. There is limited research on the frequency, distribution and effects from flooding on marae, but anecdotally the impact appears to be high. Coastal areas are vulnerable to tsunami and through coastal erosion will eventually lose habitable land on which significant numbers of marae are located, particularly in the North Island.

Q16 Retaining a heritage building (or any building) may result in lower greenhouse gas emissions than demolition, disposal of construction waste, and the greenhouse gas emissions to produce the materials in the new building. Currently the RMA doesn’t provide a way to take this into account in consent decisions on demolition.

Q 17 An aspect of environmental management that was not envisaged when the RMA was enacted is the need to respond to hazards exacerbated by climate change. Stronger direction is needed to encourage local authorities to plan for mitigation or adaption.

**Issue:** National direction

19. What role should more mandatory national direction have in setting environmental standards, protection of the environment generally, and in managing urban development?

A key issue with the implementation of the RMA has been the lack of national direction for the first two decades. The only mandatory national direction is the National Coastal Policy Statement. The National Policy Statement on Electricity Transmission was gazetted in 2008 with accompanying National Environmental Standards and since then a further three NPSs have been gazetted. Only one of these NPSs directly addresses protection of the environment, and none specifically addresses section 6 matters.

The absence of RMA national direction for historic heritage has resulted in inconsistencies in RMA plan provisions for historic heritage. The Heritage New Zealand
Pouhere Taonga national assessments of RMA policies have consistently found wide variety and inconsistencies in plan provisions for the identification of historic heritage. Some district plans have extensive schedules of historic heritage, including a wide variety of heritage not on the NZ Heritage List. Others only schedule Listed heritage and make no effort to research locally important places. As discussed elsewhere, these plans do not give effect to RPS directives to identify and protect local heritage.

Rule structures and the stringency of rules vary widely, from “prohibited” status at one end of the scale to “permitted” subject to advising the territorial authority and Heritage New Zealand Pouhere Taonga in advance and taking photographs.

Many plans do not adequately recognize and protect Māori heritage: while 72% of plans met the Heritage New Zealand Pouhere Taonga standard for rules controlling the demolition of built heritage, only 23% of plans had rules for Māori heritage that met the standard, and seven plans (11%) had no rule protecting Māori heritage. A more proactive emphasis is needed in the RMA to recognise Māori heritage and in particular the status of these places and Taonga I tuku iho. We note again the shortcomings of listing and scheduling systems. Emphasising the special regard iwi/hapū have for marae as distinct living cultural heritage places and the need for provisions that support and protect their relationship with marae and the use and development of marae. The importance of cultural heritage such as marae was recognised in the HNZPT Act, which introduced a new category “wāhi tūpuna” to allow places such as marae to be entered onto the NZ Heritage List.

The Ministry for Culture and Heritage Manatū Taonga is currently investigating the potential for a national policy statement for historic heritage. If this proceeds, it will be critical to ensure that it does not conflict with other NPSs in place or under development. Further National Planning Standards could be developed to set minimum standards for plans’ consideration of historic heritage, and to standardize matters such as consistency of definitions and criteria for assessment of heritage values. This route is quicker than the NPS route, and while planning standards can address plan details they may be less suited to establishing nationally consistent objectives and policies for historic heritage.

An example of the need for definition change is the need to recognise marae as having a unique status as wāhi taonga and taonga whare within planning instruments that embody Te Ao Māori in the context of ancestral connection to landscape and te taiao. This would help in protecting marae as living cultural heritage entities and enhancing regard particularly by territorial authorities in implementing Building Act requirements and addressing land use issues surrounding marae.

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3 National Assessment 2018
4 ibid
Issue: 7

Policy and planning framework

20. How could the content of plans be improved?

21. How can certainty be improved, while ensuring responsiveness?

22. How could planning processes at the regional and district level be improved to deliver more efficient and effective outcomes while preserving adequate opportunity for public participation?

23. What level of oversight should there be over plans and how should it be provided?

Q 20: See response to Issue 6 above. RMA plans need to take better account of iwi management plans. In order to achieve this, the RMA needs to give greater weight and status to iwi management plans, particularly in Part 5.

More emphasis is needed on the cascade of national instruments, regional policy statements to regional or district plans. While district plans should give effect to the provisions of the RPS, in many cases this is not happening (see issue 6).

Very few plans deal effectively with the protection of archaeological sites. The majority of archaeological sites are Māori heritage sites; 76% of archaeological authorities relate to Māori heritage. The HNZPT Act is seen as protecting archaeological sites and in many plans list disturbing an archaeological site as a permitted activity if an archaeological authority under the HNZPT Act has been granted. This is problematic, first because the HNZPT Act provides a mechanism for recovering archaeological information from archaeological sites through their modification and destruction; the archaeological authority process protects the archaeological information rather than a place or site. Secondly, archaeological sites are within the RMA definition of “historic heritage” and as such, should be recognized and protected as with any other historic heritage. This means identifying the most significant sites and protecting them with suitable rules.

Regional plans, other than regional coastal plans, are not specifically tasked with identifying and protecting historic heritage. While this avoids overlaps, it can create gaps, where the expertise of regional councils could contribute to the conservation of historic heritage. As a minimum, regional plans should consider the effects of activities on historic heritage.

Q22 Like many sector agencies charged with management or oversite of a particular resource, Heritage New Zealand Pouhere Taonga spends a great deal of time and resource submitting to draft and proposed district plans, and in some cases taking appeals to the Environment Court. Many district plans do not give effect to regional policy statement objectives and policies to identify and protect heritage not on the NZ Heritage List. Differences in local and regional circumstances and the expectations of local communities do not fully account for the diversity of planning approaches and plan provisions. Revised legislation could impose requirements to better co-ordinate district plans and give effect to regional policy statements, without constantly re-inventing the wheel.

As discussed above, regional spatial plans could assist with improving the consistency of district plans.

Issue: 8

Consents/approvals

24. How could consent processes at the national, regional and district levels be improved to deliver more efficient and effective outcomes while preserving appropriate opportunities for public participation?

25. How might consent processes be better tailored to the scale of environmental risk and
26. Are changes required for other matters such as the process for designations?

27. Are changes required for other matters such as the review and variation of consents and conditions?

28. Are changes required for other matters such as the role of certificates of compliance?

Q24 Consultation with iwi on resource consent proposals is optional at present. By comparison, the HNZPT Act requires evidence that consultation with iwi has been undertaken or attempted as part of the archaeological authority process. Given the wide scope of iwi interest in section 6 matters (see Question 5), consideration should be given to making consultation with iwi, or involvement of iwi in decision-making, mandatory for matters that may affect Māori heritage.

Section 74 of the HNZPT Act requires that local authorities “have particular regard” to recommendations by Heritage New Zealand Pouhere Taonga or the Māori Heritage Council on proposals affecting NZ Heritage Listed heritage areas or wāhi tapu areas respectively. This covers only a small proportion of places on the List, and should be extended to any place or area on the NZ Heritage List.

Q26 As discussed elsewhere, the procedure for heritage orders is complex, and can pose a financial risk to heritage protection authorities. Work to resolve these issues is needed, together with an alternative protection mechanisms. One option may be interim protection once a place is added to the NZ Heritage List, until it is or can be added to a plan schedule and protected with rules. As discussed above, a similar provision providing interim protection for places considered for registration (now entry onto the NZ Heritage List) was removed with the enactment of the HNZPT Act.

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<th>Issue: 9</th>
<th>Economic instruments</th>
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<td>29. What role should economic instruments and other incentives have in achieving the identified outcomes of the resource management system?</td>
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<td>30. Is the RMA the appropriate legislative vehicle for economic instruments?</td>
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Q29 Owners of heritage places often want to do the right thing but cannot afford to. Small incentives like consent fee waivers, exemptions from overly onerous zone rules and council heritage incentive funds may be effective in encouraging heritage conservation. The National Assessment of plans found that 59% of district plans provided this type of incentive for heritage owners.³

Q30 The RMA could establish a framework and expectations for economic instruments to be developed at the local level, while allowing flexibility to respond to changing circumstances and community needs and resources. These would need to be developed via the long term plan process. At a national level, economic instruments should be developed outside the RMA through a consultative policy development process.
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<th>Issue: 10</th>
<th>Allocation</th>
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<td>31. Should the RMA provide principles to guide local decision making about allocation of resources?</td>
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<td>32. Should there be a distinction in the approach taken to allocation of the right to take resources, the right to discharge to resources, and the right to occupy public space?</td>
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<td>33. Should allocation of resources use such as water and coastal marine space be dealt with under the RMA or elsewhere as is the case with minerals and fisheries, leaving the RMA for regulatory issues?</td>
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Any changes to allocation rules and principles may result in changes in the use of Māori land, which may impact on Māori heritage sites. Weighting should be given to the values over use if there are ancestral or cultural significance, cultural association or practice. Viable use can also include the appreciation of the land and its preservation for its heritage values.

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<th>Issue: 11</th>
<th>System monitoring and oversight</th>
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<td>34. What changes are needed to improve monitoring of the resource management system, including data collection, management and use?</td>
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<td>35. Who should have institutional oversight of these functions?</td>
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Q 34 and 35: while monitoring is a requirement under section 35, Heritage New Zealand Pouhere Taonga survey has not identified any recent monitoring of the effectiveness of heritage provisions outside the main centres. Better monitoring of the resource management system at the local authority level is only likely to happen with central government oversight, guidance and adequate resourcing.

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<th>Issue: 12</th>
<th>Compliance, monitoring and enforcement</th>
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<td>36. What changes are needed to compliance, monitoring and enforcement functions under the RMA to improve efficiency and effectiveness?</td>
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<td>37. Who should have institutional responsibility for delivery and oversight of these functions?</td>
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<td>38. Who should bear the cost of carrying out compliance services?</td>
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Q 36-37 Territorial authority compliance monitoring of heritage-related provisions is under-resourced and may require specialist knowledge that is absent in smaller territorial authorities. There is very little monitoring of activities that are permitted subject to criteria, such as maintenance and repair using equivalent materials.

The National Assessment of RMA plans found little evidence of section 35 monitoring of heritage provisions in plans. Given the resource constraints of many local authorities, assistance from central government in carrying out this function would be helpful.

While in general the resource consent holder could be expected to pay for monitoring compliance with the consent conditions and effects on the environment, much work on heritage places is intended to enhance the place. Consent fees are often waived for these activities: charging monitoring fees may discourage heritage owners from undertaking necessary work.

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<th>Issue: 13</th>
<th>Institutional roles and responsibilities</th>
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<td>39. Although significant change to institutions is outside the terms of reference for this review, are changes needed to the functions and roles or responsibilities of institutions</td>
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and bodies exercising authority under the system and, if so, what changes?

Q39-41 As discussed elsewhere, better co-ordination between regional councils and territorial authorities in plan making could address the disconnect between regional objectives and policies and district plan provisions.

Q 41 Paragraph 13.f.ii suggests providing for independent oversight of the system through establishing a national Māori Advisory Board on planning and the Treaty. It would be important to consider how a new body such as this would relate to the roles and functions of bodies such as the Heritage New Zealand Pouhere Taonga Māori Heritage Council.

Issue: Reducing complexity

Q 42 As discussed above, the provisions for heritage orders are complex in proportion to the effects, pose a financial risk to the heritage protection authority, and have largely fallen into disuse.

Q44 As discussed above, the respective responsibilities of Heritage New Zealand Pouhere Taonga and local authorities for management of activities that may affect archaeological sites needs to be clarified. Also, the disconnect and time lag between entering a place onto the NZ Heritage List and identifying and protecting it in an RMA plan needs to be addressed, perhaps through some interim protection mechanism – see issue 8 Interim protection while a new entry on the NZ Heritage List is awaiting consideration for plan scheduling would close the gap between listing and scheduling in a plan. Such interim protection could lapse once a place is scheduled in a proposed plan and protected with rules.

As discussed above, no provisions of the RMA or Building Act allow local authorities to deal proactively with demolition or degradation of historic heritage buildings and sites through neglect. This is a significant gap and a matter that has fallen through the cracks. Likewise Building Act requirements for strengthening earthquake prone buildings can accelerate their demolition. These are issues both for areas of low growth, where owners cannot afford maintenance and upgrades, and in high growth areas where development pressures mean the land is more valuable vacant and a new building will provide greater economic benefits.