





Kawhia and Aotea Catchments

Heritage Framework

Otorohanga District Council

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1 Introduction

Otorohanga District Council is undertaking a joint planning project (“Shore Futures”) for the Kawhia and Aotea catchments in partnership with Waitomo and Waikato District Councils and Environment Waikato.

The purpose of this report is to assess the existing heritage provisions and to make recommendations on a future heritage framework for the area. Otorohanga District Council considers that the various statutory planning instruments do not have a consistent approach and do not adequately provide for the identification, protection and management of heritage.

This report will:

- Review the existing legal framework and relevant case law
- Identify key issues and risks to heritage in the Kawhia and Aotea catchments and in Otorohanga District in general
- Review the relevant planning documents and identify any gaps and deficiencies
- Identify mechanisms available to protect heritage and the inherent strengths and weaknesses of each
- Development a management framework for both known and unknown sites

2 Review of the Legislative Framework

2.1 Legislative Overview

There are a number of pieces of legislation governing historic heritage. Since 1997 there has been considerable discussion about the future of heritage management in New Zealand. This has led to a number of reviews culminating in a recommendation from a Parliamentary Select Committee that resulted in:

- The establishment of the Ministry of Culture and Heritage
- Changes to legislation including the repeal of parts of the Historic Places Act, 1993 and far-reaching changes to the Resource Management Act, 1991 including the elevation of historic heritage to a Section 6 Matter of National Importance
- Specific acknowledgement of heritage in the Building Act, 2004 and;
- The review of funding of heritage management.

The majority of the recommendations of the Select Committee have been adopted. The anticipated amendments and/or repeal of the Historic Places Act, 1993 has not occurred. The Crown in establishing the Ministry of Culture and Heritage committed to improving heritage practice in New Zealand and this had led to a Crown driven initiative with regard to Crown land and property. The Crown’s best practice approach involves:

- Acknowledging and respecting the importance of historic heritage in its care
- Fostering an appreciation of and pride in the nation's heritage
- Ensuring that historic heritage is cared for and where appropriate used for the benefit of all New Zealanders
- Ensuring consistent practice across agencies is cared for and where appropriate used for the benefit of New Zealanders
- Ensure consistency of practice between government departments
- Setting an example for local government, public institutions, and the private sector
- Contributing to the conservation of a full range of historic places
- Ensuring places of significance to Maori are appropriately managed and conserved
- Contributing to cultural tourism and economic development.

These goals have been translated into Central Government Policy and are in the early stages of implementation. It is likely that over time many of these initiatives will flow down to local government. The bulk of the principles are considered as international best practice and are worthy later in this report of review for possible implementation of the concepts within the District Plan.

The Crown policies that are of greatest relevance are:

- Identifying, documenting and protecting heritage
- Understanding significance
- Respecting physical material
- Use of the International Council of Monuments and Sites (ICOMOS) Charter principles
- Encouraging adaptive reuse
- Placing increased significance on setting and curtilage

The legislation most applicable to this project is:

- Resource Management Act, 1991
- Historic Places Act, 1993
- Building Act, 2004
- Local Government Act, 2002

2.1.1 Resource Management Act, 1991

Part II of the resource Management Act 1991 – Purpose and Principles, encompasses the intention of the Act. Provisions for historic heritage, with aspects of the purpose and principles particularly relevant to historic heritage are:

5. Purpose –

- 1) The purpose of this Act is to promote the sustainable management of natural and physical resources.
- 2) In this Act, "sustainable management" means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while:
 - (a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and
 - (b) Safeguarding the life-giving capacity of air, water, soil, and ecosystems;
and
 - (c) Avoiding, remedying, or mitigating any adverse effects of activities on the environment.

The Resource Management Amendment Act, 2003 was given royal assent on 19 May 2003. One of the key amendments was to enhance the provisions of the Resource Management Act for historic heritage. The amendments strengthen the recognitions of historic heritage by including it as a new "Matter of National Importance". A definition of historic heritage was also added.

The provisions relevant to historic heritage are stated below:

6. Matters of National Importance

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

- (b) ...'outstanding landscapes'
- (e) The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.
- (f) The protection of historic heritage from inappropriate subdivision, use, and development.

Sections 6(b) and 6(e) above have many overlaps with historic heritage. Outstanding landscapes may include visual, physical, perceptual and cultural values.

Historic heritage is defined as:

- (a) 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:
 - (i) archaeological
 - (ii) architectural
 - (iii) cultural
 - (iv) historical
 - (v) scientific
 - (vi) technological; and
- (b) includes:
 - (i) historic sites, structures, places, and areas
 - (ii) archaeological sites
 - (iii) sites of significance to Maori, including waahi tapu
 - (iv) surroundings associated with the natural and physical resources.

Previously there was no definition of historic heritage in the Resource Management Act, as there was only a reference to the "heritage values" of places. Generally, provisions to protect historic heritage are recorded in the District Plan through the use of schedules. The schedules, particularly for European history are based on historic heritage inventories where the site and location are recorded in a predetermined format. There is also a further strong mechanism within the RMA, 1991 to protect heritage through use of a heritage order. A heritage order is a provision that prevents anyone from doing anything that affects the heritage characteristics of the place without written consent from the appropriate heritage protection authority. Such heritage protection authorities are either a Minister of the Crown, a local authority, the New Zealand Historic Places Trust or any other body approved as a heritage protection authority under the Act. Heritage orders are not intended to be the primary means of protecting historic heritage but could be seen as a "backup" and a last resort for heritage protection.

Other sections for consideration are **7 Other Matters**:

- (a) Kaitiakitanga
 - [(aa) The ethic of stewardship:]
- (c) The maintenance and enhancement of amenity values
- (f) Maintenance and enhancement of the quality of the environment

Heritage items and features make a major contribution to amenity values and quality of the environment. Stewardship is an integral part of protecting heritage for future generations.

2.1.2 Relevant Case Law

Since the elevation of historic heritage to a Matter of National Importance, only a small number of directly relevant cases have gone before the Environment Court. The cases of greatest relevance are discussed below (some are pre-amendment but still relevant) and the outcomes of each should be considered particularly as part of the recommendations to this report. We have also examined several cases relevant to this report brought under the Historic Places Act, 1993. The cases examined cover a range of heritage items:

In *NZ Historic Places Trust v Manawatu DC* [2005] the Court determined that although the building did have obvious historic merit (a typical Edwardian building with intact interior and of obvious architectural merit coupled with a documented social history) this did not make the building individually a building of national importance. The question the Court asked was based on Section 5 of the Act on whether the retention of the building constituted sustainable management. In an overall judgement approach the Court determined the cost of refurbishment and structural strengthening, a lack of demand and therefore commercial return for the refurbished building and the continued deterioration of the building if it was not refurbished outweighed the nationally important factor of preserving its heritage values from total loss and consequently granted consent for demolition.

In *Tuscany Limited v Christchurch City Council* [2005] the Court determined that Leinster House (an Historic Places Trust Category 2 registered building and a Group 4 building listed in the City Plan) could be granted a consent for removal. The Court considered the effect that removal would have on the range and number of heritage buildings. It was felt that in the area there were a significant number of older buildings that still represent heritage values of the built environment and that removal/relocation would not reduce the quality of the heritage features in the vicinity. Many of the other buildings in the area were in better condition and larger than Leinster House.

In *Papamoa Junction Ltd v New Zealand Historic Places Trust* [2005] an appeal was lodged against the NZHPT's decision to decline an archaeological authority to destroy part of an archaeological site. The affected land was undeveloped rural land in an area of notable importance archaeologically and of historic and cultural significance to Maori. There was physical evidence of remains that supported traditional tangata whenua history. There was a strong history of Waitaha's cultural and spiritual links that have continued to be asserted over an extensive period of time. The site affected by the application was considered by the Court to be part of a bigger archaeologically and culturally significant complex of sites and a significant part of a cultural landscape. The Court then looked at the implication for the developer and how that may affect the feasibility of his development, and found that the site should be preserved. The finding was that a significant part of the site should be preserved (preferably by agreement) and the balance of the land could be developed subject to an Authority.

In *Canterbury Regional Council vs Waimakariri District Council* [2002], Kaiapoi pa (a site of considerable importance to Maori adjoined the proposed new town of Pegasus Bay and had potential to be affected by the development. The Court found that although the area was the site of an appalling massacre in 1831 and the pain was still

deeply felt by those with ancestral affinity it was unable to freeze an area of 338 hectares for all uses except those of an undefined but inoffensive nature approved by tangata whenua. There had been extensive consultation with all the parties having an expectation of compromise. The Court felt it would be unjust to uphold Maori concerns from a small group where key issues were only raised at the time of the hearing. The Court also had issue with the fact that the land had been purchased in good faith from Council (at a time when the Runanga could have purchased the land) and the developer would then be deprived of meaningful use without compensation. The Court then examined S6 principles and concluded that the site could not be frozen and appropriate mitigation measures could be put in place to restore wetlands and areas of mahinga kai and to create and vest reserves.

In *Te Runanga O Ati Awa Ki Whakarongotai Inc vs New Zealand Historic Places Trust [2003]* the case was referred back to the Environment Court by a decision of the High Court to reconsider various matters of law. Some key findings of the High Court are worth noting. There is a general acceptance of oral history where 3 credible witnesses gave evidence around historic traditions of burying the dead in swamp lands. Where there is no documented evidence, oral history provided by witnesses who are not proven to be unreliable can be accepted by the Court. This was strengthened by the fact that the wetlands were geographically well defined. The review by the Environment Court concluded that the Court accept oral history to the extent that it is accurate to the extent of what has been handed down. What the Court did not accept was the base from whence oral tradition emanated was necessarily sound in fact and untainted by variations and inaccuracies which have crept in over time and in particular relating to precise geographic locations in a case where geographic precision is required.

The key conclusions that can be drawn from the case law relevant to this report are the following:

- The Court will take a S5 balanced judgement approach to the protection of historic heritage. This may mean that although items/areas/landscapes have proven and undeniable historic values if these cannot be balanced with other factors such as economic viability the Court will not require the heritage values to be protected
- The Court will take a broad approach in considering the contextual and cultural landscape values of a place. Where there is strong evidence both physical and spiritual the Court will seek to protect those heritage values. Those judgements are heavily reliant on strong and supportable evidence and a S5 balanced judgement will be applied.
- The Court will generally not freeze large tracts of land as this is considered to be unsustainable. The Court will generally favourably consider compromises where the adverse effects on historic heritage are able to be avoided, remedied or mitigated.
- Oral tradition is accepted but on the understanding that oral tradition can be distorted over time and may be geographically imprecise.

2.1.3 Historic Places Act, 1993

The New Zealand Historic Places Act, 1993 is administered by the New Zealand Historic Places Trust ("the Trust"). Section 4 of the Act states that the purpose of the Act is to:

"promote the identification, protection, preservation, and conservation of the historical and cultural heritage of New Zealand.

- (2) In achieving the purpose of this Act, all persons exercising functions and powers under it shall recognise -
- (a) The principle that historic places have lasting value in their own right and provide evidence of the origins of New Zealand's distinct society; and
 - (b) The principle that the identification, protection, preservation, and conservation of New Zealand's historical and cultural heritage should -
 - (i) Take account of all relevant cultural values, knowledge, and disciplines; and
 - (ii) Take account of material of cultural heritage value and involve the least possible alteration or loss of it; and
 - (iii) Safeguard the options of present and future generations; and
 - (iv) Be fully researched, documented, and recorded, where culturally appropriate; and
 - (d) The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga

As well as the regulatory component relating to archaeological sites, the Historic Places Act, 1993 has provisions for identification of historic places, historic areas, waahi tapu and waahi tapu areas. The Trust is required to keep a Register of these places. The purpose of the Register is to identify such places, inform owners and to assist in the protection of such places under the Resource Management Act.

Registration does not of itself protect these places but assists in protection by notifying property owners and the public of their significance. Additionally, local authorities are required to have regard to entries in the register when developing district and regional plans. Regulations and criminal provisions of statutes may also be easier to apply to registered places. Protection for heritage is through the District Plans, not through registration.

The registration process involves the Historic Places Trust receiving a nomination which details the history and significance of the place. The nomination is assessed against criteria in the Historic Places Act, 1993. If significance is substantiated, the proposal will be notified (i.e. submissions called for) prior to a decision being made by the Trust Board. Councils and owners are notified when a place is registered. For

historic areas and waahi tapu areas, the Trust can make specific recommendations to councils about conservation measures. All councils receive an updated copy of the Register every year.

The definitions of an historic area and a historic place used in the Historic Places Act, 1993 are:

“Historic area” means an area of land that –

- a) Contains an inter-related group of historic places; and
- b) Forms part of the historical and cultural heritage of New Zealand; and
- c) Lies within the territorial limits of New Zealand

“Historic place” means –

- a) Any land (including an archaeological site); or
 - i) Any building or structure (including part of a building or structure); or
 - ii) Any combination of land and a building or structure,That forms part of the historical and cultural heritage of New Zealand and lies within the territorial limits of New Zealand; and
- b) Includes anything that is in or fixed to such land

The Historic Places Act provides a system for registering historic places under two categories:

- Category I: Places of special outstanding historical or cultural significance or value; and;
- Category II: Places of historical or cultural heritage significance or value.

Another way of considering these categories are that Category I places are usually of national importance and Category II places are usually of regional or local importance. While registration is an indication of the heritage value of a place, it does not provide protection. The protection of registered places is largely reliant on the District and Regional Councils including provisions in their plans for the protection of historic heritage from inappropriate subdivision, use and development. There are requirements in the Resource Management Act, 1991 that require Category I and II items to be recorded on LIM reports and Council is obliged, in considering resource consents where a registered item is affected, to consult with the NZ Historic Places Trust.

2.1.4 Building Act, 2004

The Building Act, 2004 regulates all buildings in New Zealand. The Act requires local authorities to ensure that buildings are safe, promote physical independence and wellbeing, have adequate fire escape provisions and are designed, constructed and are able to be used in ways that promote sustainable development. Local authorities are also required to take into account Section 4(2)(f) which includes the need to facilitate the preservation of buildings of significant cultural, historical or heritage value.

It is also worth noting that the Act also requires Regional Councils to develop a policy for heritage dams as well as policy for earthquake prone and unsanitary buildings. The heritage building component of these policies e.g. ODC indicate a willingness and a need to preserve heritage buildings but the policy lacks specificity. In applying the purpose of the Building Act, 2004 the relevant heritage principles are:

Under Section 4(2)(d) and (l) of the Building Act 2004 Principles the purpose is to:

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

2.1.5 Local Government Act, 2002

Under section 3 of the Local Government Act, 2002 the purpose is to:

<i>“Provide for democratic and effective local government that recognises the diversity of New Zealand communities; and, to that end, this Act-</i>

- | | |
|-----|--|
| (a) | States the purpose of local government. |
| (b) | Provides a framework and powers for local authorities to decide which activities they undertake and the manner in which they will undertake them. |
| (c) | Promotes the accountability of local authorities to their communities. |
| (d) | Provides for local authorities to play a broad role in promoting the social, economic, environmental, and cultural well-being of their communities, taking a sustainable – development approach. |

The key principles of the Act can be summarised as follows:

A local authority should make itself aware of and should have regard to the views of all its communities. In making decisions, it should take account of:

- Community diversity.
- Social, economic, environmental and cultural well-being of its communities.
- Future as well as current communities

The 1974 Act made provision for consideration of heritage matters but in the new legislation far greater flexibility is allowed. The fact that “cultural wellbeing” has been identified as one of the four well-beings in the purpose of the Act will require local authorities to pay greater attention to their area’s heritage resources and their contribution to community wellbeing. Should Council elect to introduce any of the non-regulatory mechanisms set out below these may need to be included in the LTCCP as they may have a significant financial element.

Environment Waikato’s LTCCP has clear community outcomes under 4. Culture and Identity. These outcomes are holistic both identifying the Region’s strong Maoritanga and the rich and diverse natural and cultural heritage. This outcome is strongly supported by the need to preserve and value heritage sites and landscapes of significance to whanau, hapu and iwi. Emphasis is also placed on the retention of historic buildings and places.

The LTCCP for Otorohanga also has clear community outcomes in their LTCCP including identifying, marking and preserving sacred and historic sites as well as maintaining the historic nature of Kawhia. Clear cultural outcomes include supporting the NZAA upgrade programme, and identifying and protecting waahi tapu sites.

The Waitomo and Waikato LTCCP’s lack clearly defined heritage outcomes.

2.1.6 Summary of Roles and Responsibilities

Authority	Role and Responsibility
Waitomo, Waikato and Otorohanga District Councils	Statutory responsibility under the RMA, 1991 for the sustainable management of historic heritage under S5, S6(e) and (f) and S8 of the RMA 1991 in respect of Territorial Local Authority functions.
Environment Waikato	Statutory responsibility under the RMA, 1991 for the sustainable management of historic heritage under S5, S6(e) and (f) and S8 of the RMA 1991 in respect of Regional Council functions. The Regional Authority sets the direction for heritage management through the Regional Policy Statement (RPS is presently under review).
New Zealand Historic Places Trust (NZHPT or HPT)	Provides statutory protection for archaeological sites (known and unknown). Registers European buildings, structures, area, landscapes and waahi tapu sites and areas but provides no statutory protection for these items and is reliant on RMA mechanisms to achieve this. HPT is considered an affected party under the RMA 1991 in respect of all heritage items.
Iwi Authorities	Iwi Management Plans need to be taken into account in Plan preparation and in the processing of resource consents under the RMA 1991.
Other Organisations – Trusts, Historical Associations etc	Advocacy role only as these bodies are not considered to be heritage protection authorities. May be considered as affected parties in Plan preparation and in the processing of resource consents under the RMA 1991.
Funding Agencies – Lottery Environment & Heritage Fund, Trust Waikato etc	Provide funding for a range of heritage projects from research through to physical works. Criterion for consideration for funding is normally HPT registration or District Plan listing.

3 Identification of Key Issues

There are a number of issues, threats and risks facing the Aotea and Kawhia Catchments as well as the Otorohanga District. Many of these are generic and face the region as a whole.

- **Growth and development** can have a substantial impact on the historic heritage resource unless it is sustainably managed. The upturn in growth in the region is likely to exacerbate the risks to historic heritage. This level of management is reliant on the **heritage resource** being **identified** and appropriately managed and protected. There are a number of **data limitations** within the study area.
- A **lack of knowledge and understanding**, can lead to fear and uncertainty, particularly in respect of waahi tapu and archaeological sites. This requires sensitive handling by the Councils to ensure RMA requirements are met
- There is a general **lack of awareness** of the effects that **land use activities** and **subdivision** can have on the heritage resource.
- There is uncertainty around the concept of **cultural landscapes** and the scale of area that encompasses. The introduction of the cultural landscape into the historic heritage definition via the RMA amendment has yet to be fully tested in case law.
- There is a general lack of understanding of the **dynamic nature of historic heritage** and how that can change and evolve. There is a perception that historic heritage has to be old. There is a poor monitoring system in place to monitor and record the effects of subdivision and development on sites.

The key issues are discussed in more detail below:

- **Growth and Development Pressures**– There is pressure for rural lifestyle and residential development along the coastal margins due to outstanding views and comparatively low land cost compared to more developed coastal zones e.g. Raglan/Bay of Plenty. Otorohanga and Waikato District both have large areas of undeveloped coastline that is becoming attractive for development. Waikato District is under considerably more pressure around Raglan and its environs than Kawhia and Aotea catchments. Residential development pressure in Otorohanga appears to be a more a perception than a reality, though 5 major coastal subdivisions in the District have been declined since 1999.

The coastal strip and inland waterways have high visual, natural and cultural values. These areas were historically prime areas for habitation. Coastal margins were attractive places to live due to the abundance of seafood and north facing slopes with good soils were attractive for kumara growing. Coastal peaks and ridges provided defensive positions for protection of the pa. Development in these areas unless accompanied by a comprehensive archaeological and cultural assessment can lead to the permanent or partial destruction of sites.

- In addition to demand for residential subdivision and development there is pressure for dairy conversion often at the expense of forestry. The present economic climate with

low dollar values per hectare for timber compared to high dairy payouts encourages this land use change. Large scale clearance of the land can have severe and irreversible effects on significant sites as can tracking and earthworks.

- Built European sites are generally well recorded but European archaeological sites are not. These sites like pre European sites are at substantial risk from subdivision and development.
- **Lack of information and data Limitations** – A review of the statutory documents show that European built heritage is reasonably well identified though the European archaeological values are poorly represented, there is some recognition of archaeological sites, the cultural elements of landscape are neglected and the identification and protection of waahi tapu sites is substantially ignored. The lack of information and knowledge about the location, nature and appropriate management of sites makes sustainable management difficult to achieve.

European sites have been identified in all of the statutory planning instruments. The inventories are not complete and have tended to focus on easily identifiable features (attractive buildings, structures and memorials) but are lacking in rural heritage, industrial/commercial heritage and infrastructure. This is something that can be addressed over time as the inventories, in their present form, at least make a concerted effort to identify significant sites.

The identification and accuracy of archaeological is variable and by no means complete.

A considerable amount of information on archaeological sites is held in the NZAA Site Recording Scheme. This was set up in 1957 to encourage the recording of information about archaeological sites. It is a paper-based record system that contains plans, section drawings, photographs, artefact drawings and field notes. The SRS contains over 59 000 records. The Site Recording Scheme is endorsed by the New Zealand Historic Places Trust and the Department of Conservation as the national system for recording archaeological site information.

With the adoption of the RMA 1991 and the Historic Places Act 1993 (HPA) there has been greater use of the Scheme in planning and legal issues for site identification, protection and management. Territorial local authorities are one of the principle users of the Scheme in their ongoing land and heritage management and protection roles. This information is extremely valuable but its use and inclusion in statutory planning instruments needs to be treated with caution. Records have been contributed by many different individuals and agencies over many years and so vary in quality and in the level of detail offered. NZAA clearly point out the limitations of the data:

- “A grid reference gives the location of a site, but it does not delimit its extent. The location of sites is usually only recorded to within about the nearest 100 metres but the accuracy may in some cases be less than this.
- The absence of data for any particular area should not be taken to mean that it contains no archaeological sites. It may mean that no archaeological survey has

been carried out, or that sites were obscured at the time the survey was done. In any given area there may be any number of undiscovered or unrecorded sites

- Some recorded sites may no longer exist. They may, for example, have been destroyed since they were recorded.
- Historical (European period) archaeological sites, in particular, are currently under-represented in the Site Recording Scheme
- Not all sites recorded in the Site Recording Scheme are archaeological sites in terms of the Historic Places Act 1993. They may, for example, post-date 1900 or no longer be able, through investigation by archaeological methods, to provide evidence relating to the history of New Zealand
- The formal evaluation of site significance is not a function of the Site Recording Scheme.
- While some archaeological sites may also be considered waahi tapu, the Site Recording Scheme is not specifically concerned with such places. If information about waahi tapu is required, it should be obtained from the relevant Iwi/hapu.

To mitigate these difficulties NZAA initiated a project in 1999 to upgrade the information contained in the SRS. This project involved archaeologists checking the details recorded on the files to assess precision, accuracy and to update the information where required. This was not intended as a large-scale site recording project. The primary focus of the SRS Upgrade Project was to upgrade the information held on sites in the Scheme but did **not** record new sites. There are large areas of land in the subject area that have never been systematically surveyed. The spot accuracy of the sites, even with the upgrade, cannot be guaranteed. The quality of the data has been substantially improved but a number of the above parameters still apply.

There has been limited recording of waahi tapu sites in the Aotea/Kawhia catchments catchment or within Otorohanga District. Historic Places Trust has only recorded Rangiriri, Te Waihoanga, Huiputea, Rangiahua and Motutara with parts of Tokanui recorded as an historic area. These spiritual sites are significantly under-represented considering the history of occupation of the area.

- **Lack of Knowledge and Understanding** – A lack of knowledge and understanding can lead to fear and uncertainty. The spiritual nature of waahi tapu sites is generally poorly understood by the broader community. There is an unfortunate perception that waahi tapu are a tool to prevent development from occurring. This misconception can only be addressed by increasing knowledge and understanding of these sites and improving their recording. Techniques that have worked elsewhere e.g. Gisborne District are a slow and gradual build-up of information provided to landowners and the community and individual consultation with affected landowners. Where this occurs understanding is transferred from tangata whenua to the landowner in a non-threatening manner. Recording is also considered vital as valuable and irreplaceable information is lost as kaumatua and other elders pass on.

- **Effects of land use activities and subdivision** – There is often a general, though not deliberate lack of understanding of the effects of subdivision and land use on the historic heritage resource. There are many aspects to this:

In a rural setting landowners are often aware that they have historic heritage sites and endeavour to protect them but damage may still occur. Grazing near archaeological and waahi tapu sites may often be appropriate to keep down weeds but grazing of cattle may cause considerable damage. Running of sheep is often a far better option. This allows weeds and vegetation to be kept down and also allows continued economic use of the land. Some animals grazing on waahi tapu may also be considered culturally offensive. Land can still be economically used but with appropriate management practices and the adoption of management/maintenance plans. There are no known management/maintenance plans in the study area. There is good information available primarily from the Department of Conservation on managing archaeology in a rural setting. These guidelines could well be adapted for District Plan use either in rule or policy form.

Subdivision is often perceived as a “paper” exercise. The consequential effects of subdivision can have a significant adverse effect on historic heritage resources. Consideration on heritage values needs to be a primary consideration in the processing of these applications. Lack of information, as indicated above, often retards this process.

Some land use activities are culturally offensive when carried out on waahi tapu or in close proximity to waahi tapu sites.

In respect of European buildings the key to sustaining the life of a building or structure is to find an appropriate use. Adaptive re-use should be actively encouraged but policy to guide this is lacking in the region. Some activities are inappropriate for heritage buildings and can increase the rate of deterioration.

- **Cultural Landscapes** - Cultural landscapes are a comparatively new concept in New Zealand primarily introduced through the RMA amendment definition of historic heritage. The amendment is relatively new and there is uncertainty around the concept as it has yet to be fully tested in case law.
- A cultural landscape has been defined by the World Heritage Committee as “distinct geographical area or properties uniquely representing the combined work of nature and man”
- The World Heritage Committee has identified and adopted three categories of cultural landscape:

- | |
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| <p>(i) <i>"a landscape designed and created intentionally by man";</i></p> <p>(ii) <i>an "organically evolved landscape" which may be a "relict (or fossil) landscape" or a "continuing landscape";</i></p> <p>(iii) <i>an "associative cultural landscape" which may be valued because of the "religious, artistic or cultural associations of the natural element"</i></p> |
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Cultural landscapes have not been addressed in any of the existing statutory instruments in any ordered or consistent way. These landscapes can cover an extensive area and although there is considerable case law on the protection and management of landscape the cultural component has yet to be fully introduced. Landscape assessments that are being undertaken in the Region at present may well begin to take certain of these elements into account.

- **Dynamic nature of historic heritage** – The management of the historic heritage resource is an ongoing and dynamic exercise. The first generation RMA 1991 plans focussed primarily on the identification and protection of European heritage with a few attempting to sustainably manage archaeological sites and waahi tapu. This is the case in the study area. The next generation of plans are attempting to improve this but inventories need to be constantly assessed to ensure they continue to reflect the cultural and spiritual views of tangata whenua, landowners and the community as a whole. Historic heritage is dynamic – new items may be discovered, some items may diminish in significance and some items may be affected by subdivision or development. Historic heritage is not necessarily determined by age but by significance. There is a legal responsibility to record the past for the benefit of future generations. It should be a community effort with particular emphasis placed on finding the balance of legitimate use of land by landowners and the protection of the historic heritage resource. The long term benefits can be considerable and long term particularly in respect of education, cultural and spiritual stability, social wellbeing, community identity and the efficient use of resources.
- Monitoring of historic heritage area has not been robust in the past. There is little known of when sites were damaged, the extent of the damage and the mitigation measures. Improved information leads to improved monitoring which in turn leads to improved management.

4 District and Regional Plan Review

A brief review of the relevant statutory instruments has been undertaken. The results of this review are contained in the Table below. The conclusions that can be drawn are the following:

- European built heritage particularly with regard to the identification of specific buildings is generally well covered. The European Inventories are weak on identifying the less “pretty” heritage items and have not covered industrial, rural or infrastructural heritage adequately. The emphasis has also been on individual sites rather than on curtilage, precincts or on the broader cultural landscape.
- Fairly comprehensive archaeological site registers are contained in some plans. These plans are first generation plans and rely on the old NZAA data. The old data is unreliable and has caused considerable difficulty for some Councils (Waikato District for example). The second generation Waikato District Council Plan identifies only urupa and fails to identify other archaeological sites. It is presumed that this is a deliberate action pending the improved information that will result from the NZAA upgrade project. European archaeological sites are grossly under-represented.
- Waahi tapu are not strongly or comprehensively represented in any of the statutory instruments.
- Cultural landscapes encompassing both Maori and European history are not represented in any of the plans. Landscapes are but the cultural element, if it has been introduced, is not immediately apparent.
- The objectives and policies particularly in the first generation plans tend to mirror the wording of the RMA 1991 and are not particularly useful in assessing discretionary and non-complying activities.

Table 3 – Summary of District and Regional Planning Instruments

Otorohanga District Council	Operative Waitomo District Council	Operative Waikato District Council Plan	Proposed Waikato District Plan	Environment Waikato – Regional Plan	Environment Waikato – Regional Coastal Plan	Environment Waikato – Regional Policy Statement
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NATURE OF HISTORIC HERITAGE	CONTAINED IN PLAN INVENTORY	DEGREE OF COMPLETENESS	ASSESSED ACCURACY OF INFORMATION	EFFICACY OF POLICIES AND OBJECTIVES	EFFICACY OF DISTRICT PLAN RULES
Built European Heritage buildings/sites and monuments	Yes – Sites listed in Appendix 7a of the District Plan and identified on the District Planning Maps.	Section within 7a identifies features such as World War 1 memorials and Doctors house.	Within Section 7a a further documentation of this area is available from the NZHPT.	General objectives and policies that are generically RMA worded, e.g. obj 4.2.3, policies 4.3.4 and 4.3.5. Objectives and policies within Sections 6.2 and 6.3 contain specific provisions protecting all aspects of historic, cultural, historic buildings, iwi cultural, natural heritage and archaeological values. However they are generically RMA worded.	Yes – Sites listed in Appendix 7a of the District Plan and identified on the District Planning Maps. Specific Rules throughout the land use and subdivision chapters that restrict development within 100 metres of any recorded archaeological site, or any discovered archaeological site, unless the Historic Places Trust and iwi have provided their written approval. In addition through the subdivision process the archaeological, historic or cultural site is required to be registered on the title or the property to be subdivided, or the registered, recorded or discovered archaeological, historic or cultural site is already legally protected by means of covenant, or is set aside as a lot for heritage or reserve purposes.
	Yes – Heritage items identified within the District Planning Maps.	Each site is listed within Schedules 1 – 3 within the Plan. Identifies features such as Courthouse, former hotel	Each site has physical address, planning map number, legal description, name and NZHPT category	General objectives and policies that cover and protect any items of cultural heritage. Very broad and do not detail specific areas.	Yes – Specific Rules within the Heritage Chapter that cover all forms of identified heritage items that are identified within the district

NATURE OF HISTORIC HERITAGE	CONTAINED IN PLAN INVENTORY	DEGREE OF COMPLETENESS	ASSESSED ACCURACY OF INFORMATION	EFFICACY OF POLICIES AND OBJECTIVES	EFFICACY OF DISTRICT PLAN RULES
		buildings. Very few buildings / sites identified (15).	class.		plan
	Yes – Buildings, Objects, Items and Features of Cultural Heritage Value are identified on the District Planning Maps and registered within Section 54 of the District Plan.	Section 54 includes comprehensive register of sites. 76 sites identified including Churches, taverns, cottages, graves etc.	Each site has reference number, site name, location, status (ownership), description, significant dates, i.e. when building was built, also the NZHPT registration number. Detailed information then available from NZHPT.	General objectives and policies contained within Section 54 that cover and protect any items of cultural heritage. Very broad and do not detail specific areas, or sites.	Yes – Buildings, Objects, Items and Features of Cultural Heritage Value are identified on the District Planning Maps and registered within Section 54 of the District Plan. Within Section 54 there are specific rules that relate to the registered sites.
	Yes – All historic heritage items are identified on the District Planning Maps and included in Appendix C	Appendix C details 100+ items including houses, war monuments, post offices etc.	Each site has a reference number, and a detailed description of the significant feature of interest, property location and HPT reference. Also a statement of significance for each item based on the evaluation criteria and assessment is available fro Council.	Numerous objectives and policies within Chapter 12 cover and protecting all aspects including architectural, cultural, archaeological etc. Also some specific to sites significant to Maori and also areas or towns.	Yes – Buildings and items of Cultural Heritage Value are identified on the District Planning Maps and registered within the appendices of the District Plan. Within Chapter 12 there are specific rules that relate to the registered sites.
	No	No	No	No	N/A – No heritage sites identified, no specific rules.
	No	N/A	N/A	N/A	N/A – No heritage sites identified, no specific rules.
	No maps or specific sites registered.	N/A	N/A	Yes / No Chapter 3.15 Contains broad coverage of cultural and Maori heritage provisions however nothing specific.	N/A – No heritage sites identified, no specific rules.
European Heritage	No – Specific sites identified as above but no reference to	N/A	N/A	General objectives and policies that are generically RMA worded,	No – Rules relating to specific sites identified as above but no

NATURE OF HISTORIC HERITAGE	CONTAINED IN PLAN INVENTORY	DEGREE OF COMPLETENESS	ASSESSED ACCURACY OF INFORMATION	EFFICACY OF POLICIES AND OBJECTIVES	EFFICACY OF DISTRICT PLAN RULES
areas, precincts and cartilage.	general areas.			e.g. obj 4.2.3, policies 4.3.4 and 4.3.5. Objectives and policies within Sections 6.2 and 6.3 contain specific provisions protecting all aspects of historic, cultural, historic buildings, iwi cultural and natural heritage and archaeological values. However they are generically RMA worded.	reference to general areas.
	No – Specific sites identified as above but no reference to general areas.	N/A	N/A	General objectives and policies that cover and protect any items of cultural heritage. Very broad and do not detail specific areas.	No – No specific sites identified, however the Rules within the Heritage Chapter are very broad and cover all forms of identified items.
	No – Specific sites identified as above but no reference to general areas.	N/A	N/A	General objectives and policies contained within Section 54 that cover and protect any items of cultural heritage. Very broad and do not detail specific areas.	No – No 'areas' identified only specific sites, therefore no rules relating to areas or precincts.
	Yes – General Heritage Areas are zoned on planning maps.	Appendix C details information relating to specific areas / precincts.	Each site has a reference number, and a detailed description of the significant feature of interest, property location and HPT reference. Also a statement of significance for each item based on the evaluation criteria and assessment is available fro Council.	Numerous objectives and policies within Chapter 12 cover and protecting all aspects including architectural, cultural, archaeological etc. Also some specific to sites significant to Maori and also areas or towns. Within Section 12 there are specific Precincts provided for to be protected, e.g. Raglan Town Centre. In addition Appendix D provides specific Precinct Design requirements for the identified areas.	Yes – General Heritage Areas are zoned on planning maps. Within Section 12 there are specific rules relating to the identified precincts provided for to be protected, e.g. Raglan Town Centre. In addition Appendix D provides specific Precinct Design requirements for the identified areas.

NATURE OF HISTORIC HERITAGE	CONTAINED IN PLAN INVENTORY	DEGREE OF COMPLETENESS	ASSESSED ACCURACY OF INFORMATION	EFFICACY OF POLICIES AND OBJECTIVES	EFFICACY OF DISTRICT PLAN RULES
	No	No	No	No	N/A – No precincts/heritage or cartilage areas identified, no specific rules.
	No	N/A	N/A	N/A	N/A – No precincts/heritage or cartilage areas identified, no specific rules.
	No	No	No	No	N/A – No precincts/heritage or cartilage areas identified, no specific rules.
Archaeological sites	Yes – Sites listed in Appendix 7 of the District Plan and identified on the Planning Maps.	In excess of 250 NZAA sites listed, each have Northing and Easting references and brief site description i.e. Pa, Canoe. Also District Plan Map number.	Appendix 7 states that the actual location may vary from that depicted on the planning map. However Otorohanga District Council made a commitment to NZAA to upgrade site information and accurately locate archaeological sites within the District and was anticipated to be completed by the year 2000.	General objectives and policies that are generically RMA worded, e.g. obj 4.2.3, policies 4.3.4 and 4.3.5. Objectives and policies within Sections 6.2 and 6.3 contain specific provisions protecting all aspects of historic, cultural, historic buildings, iwi cultural, natural heritage and archaeological values. However they are generically RMA worded.	Specific Rules throughout the landuse and subdivision chapters that restrict development within 100 metres of any recorded archaeological site, or any discovered archaeological site, unless the Historic Places Trust and iwi have provided their written approval. In addition through subdivision the archaeological, historic or cultural site is required to be registered on the title or the property to be subdivided, or the registered, recorded or discovered archaeological, historic or cultural site is already legally protected by means of covenant, or is set aside as a lot for heritage or reserve purposes.
	Yes – Sites listed in Section 21: Schedule 3.	Approx 250 sites listed all taken from NZAA records.	Information is stated to be accurate to within 100m; extent of the site is not indicated.	General objectives e.g. obj 11.3.3 very generically worded 'to avoid mitigate or remedy the effects on archaeological sites.	Yes – Specific Rules within the Heritage Chapter that cover all forms of identified archaeological sites that are identified within the district plan.

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NATURE OF HISTORIC HERITAGE	CONTAINED IN PLAN INVENTORY	DEGREE OF COMPLETENESS	ASSESSED ACCURACY OF INFORMATION	EFFICACY OF POLICIES AND OBJECTIVES	EFFICACY OF DISTRICT PLAN RULES
	Yes – Archaeological features identified on the planning maps.	Section 54 includes comprehensive register of sites. Approx 500 sites listed.	Each site has reference number, northing and easting location then a brief site description i.e. Carved Rock, Pa. Information/location is accurate to within approximately 100m, does not indicate the extent of the site and it is also noted that absence of site may indicate a lack of information not the absence of sites. It appears a lot of this information was removed as very little is carried over into PDP. Indicates why the iwi consultation is important for each resource consent WDC process.	General objectives and policies contained within Section 54 that cover and protect any items of cultural heritage including archaeological sites. Very broad and do not detail specific areas.	Yes - specific rules contained within Section 54 that cover and protect any items and archaeological sites.
	Yes / No – Only very few Urupa indicated on the planning maps.	Section 12 of the District Plan states there are a number of archaeological sites identified however there is no list of sites or any information to these within the plan.	Sites are only labelled with red circle which indicates 'Urupa' however no reference number etc, and doesn't appear to be registered with NZHPT.	Numerous objectives and policies within Chapter 12 cover and protecting all aspects including architectural, cultural, archaeological etc.	Yes / No – Only very few Urupa indicated on the planning maps. However specific rules throughout each zone chapter relating to registered sites.
	No	No	No	No	N/A – No archaeological sites identified, no specific rules.
	No	N/A	N/A	N/A	N/A – No archaeological sites identified, no specific rules.
Archaeological areas	No	N/A	N/A	General Objectives and policies that are generically RMA worded, e.g. obj 4.2.3, policies 4.3.4 and 4.3.5. Objectives and policies	Specific mention of archaeological sites but no reference to areas.

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NATURE OF HISTORIC HERITAGE	CONTAINED IN PLAN INVENTORY	DEGREE OF COMPLETENESS	ASSESSED ACCURACY OF INFORMATION	EFFICACY OF POLICIES AND OBJECTIVES	EFFICACY OF DISTRICT PLAN RULES
				within Sections 6.2 and 6.3 contain specific provisions protecting all aspects of historic, cultural, historic buildings, iwi cultural, natural heritage and archaeological values. However they are generically RMA worded.	
	No – Sites are identified in terms of specific site, no reference to any general areas.	N/A	N/A	N/A	No – Sites are identified in terms of specific site, no reference to any general areas.
	No – Sites are identified in terms of specific site, no reference to any general areas.	N/A	N/A	N/A	No – Sites are identified in terms of specific site, no reference to any general areas.
	No	N/A	N/A	Numerous objectives and policies within Chapter 12 cover and protecting all aspects including, archaeological sites and areas.	No – However specific rules throughout each zone chapter relating to registered sites.
	No	No	No	No	N/A – No archaeological areas identified, no specific rules.
	No	N/A	N/A	N/A	N/A – No archaeological sites identified, no specific rules.
	No	No	No	No	N/A – No archaeological sites identified, no specific rules.
Waahi tapu	Sites listed in Appendix 7a of the District Plan and identified on the Planning Maps. Some archaeological sites may be considered waahi tapu but there is no clearly identified waahi tapu schedule.	In excess of 250 NZAA sites listed, each have Northing and Easting references and brief site description i.e. Pa, Canoe. Also District Plan Map number. Some of these sites may be waahi tapu but have	Appendix 7 states that the actual location may vary from that depicted on the planning map. However Otorohanga District Council made a commitment to NZAA to upgrade site information and	Contains objectives e.g. 2.23, 2.24, and policy 2.3.2 are specific to iwi and ensure that the cultural landscapes significant to Maori/iwi cultural values are protected. Also several other general objectives and policies that are generic RMA	Specific Rules throughout the landuse and subdivision chapters that restrict development within 100 metres of any waahi tapu or taonga sites identified by iwi or tangata whenua unless the Historic Places Trust and iwi have provided

NATURE OF HISTORIC HERITAGE	CONTAINED IN PLAN INVENTORY	DEGREE OF COMPLETENESS	ASSESSED ACCURACY OF INFORMATION	EFFICACY OF POLICIES AND OBJECTIVES	EFFICACY OF DISTRICT PLAN RULES
		not been identified as such.	accurately locate archaeological sites within the District and was anticipated to be completed by the year 2000. Some of these sites may be waahi tapu but waahi tapu sites are specifically identified.	worded.	their written approval. In addition through subdivision the cultural site is required to be registered on the title or the property to be subdivided, or the registered, recorded or discovered archaeological, historic or cultural site is already legally protected by means of covenant, or is set aside as a lot for heritage or reserve purposes.
	Sites listed in Section 21: Schedule 3. Some of these sites may be waahi tapu but are not specifically identified as such	Approx 250 sites listed all taken from NZAA records includes archaeological and iwi sites. Some of these sites may be waahi tapu but are not specifically identified as such. A waahi tapu schedule is lacking.	Information is stated to be accurate to within 100m; extent of the site is not indicated.	General objectives e.g. obj 11.3.3 very generically worded 'to avoid mitigate or remedy the effects on archaeological/iwi sites.	No – No specific rules relating to Waahi Tapu, however there are rules that cover 'significance of the place for Tangata Whenua.
	Yes – Waahi Tapu sites identified on the planning maps.	Section 54 includes comprehensive register of sites. Approx 500 sites listed.	Each site has reference number, northing and easting location then a brief site description i.e. Carved Rock, Pa. Information/location is accurate to within approximately 100m, does not indicate the extent of the site and it is also noted that absence of site may indicate a lack of information not the absence of sites. No waahi tapu sites are specifically identified	General objectives and policies contained within Section 54 that cover and protect any items of cultural heritage including archaeological and waahi tapu sites. Very broad and do not detail specific areas.	Yes - specific rules contained within Section 54 that cover waahi tapu sites.
	Yes – Urupa sites are	Very limited, very few sites	Site is only identified by a red		Yes / No – Only very few Urupa

NATURE OF HISTORIC HERITAGE	CONTAINED IN PLAN INVENTORY	DEGREE OF COMPLETENESS	ASSESSED ACCURACY OF INFORMATION	EFFICACY OF POLICIES AND OBJECTIVES	EFFICACY OF DISTRICT PLAN RULES
	identified on planning maps.	identified.	circle, no number reference or schedule of sites are included in the plan.		indicated on the planning maps. However specific rules throughout each zone chapter relating to registered sites.
	Yes / No – Chapter 2 contains detailed information regarding the 'Matters of Significance to Maori', but no specific sites identified on plans etc.	N/A	N/A	Within Chapter 3 – Water Module there are specific policies relating to waahi tapu, however all referenced around the obligations under s6 of the RMA.	N/A – No Waahi Tapu sites identified, no specific rules.
	No	N/A	N/A	N/A	N/A – No Waahi Tapu sites identified, no specific rules.
	Yes / No Chapter 3.15 Contains broad coverage of natural and cultural heritage provisions including Maori however nothing specific.	N/A	N/A	Yes / No Chapter 3.15 Contains broad coverage of cultural and Maori heritage provisions however nothings specific.	No specific 'rules' however there are several implementation methods that consultation with tangata whenua.
Waahi tapu Areas	Some sites listed in Appendix 7a of the District Plan and identified on the Planning Maps that may be waahi tapu but are not specifically identified as such.	Section within 7a identifies a 'Tokanui Historic Area' which lists three known Pa sites/areas that may be waahi tapu.	Within Section 7a a further documentation of this area is available from the NZHPT.	Contains objectives e.g. 2.23, 2.24, and policy 2.3.2 are specific to iwi and ensure that the cultural landscapes significant to Maori/iwi cultural values are protected. Also several other general objectives and policies that are generic RMA worded.	Specific Rules throughout the landuse and subdivision chapters that restrict development within 100 metres of any recorded waahi tapu or taonga sites identified by iwi or tangata whenua. However these are limited to specific sites and not general areas.
	No – Sites are identified in terms of specific site, no reference to any general areas.	N/A	N/A	N/A	No – No specific rules relating to Waahi Tapu, however there are rules that cover 'significance of the place for Tangata Whenua.
	No – Sites are identified in terms of specific site, no reference to any general areas.	N/A	N/A	N/A	No – Sites are identified in terms of specific site, no reference to any waahi tapu areas.

NATURE OF HISTORIC HERITAGE	CONTAINED IN PLAN INVENTORY	DEGREE OF COMPLETENESS	ASSESSED ACCURACY OF INFORMATION	EFFICACY OF POLICIES AND OBJECTIVES	EFFICACY OF DISTRICT PLAN RULES
	No	N/A	N/A	N/A	No – Sites are identified in terms of specific site, no reference to any waahi tapu areas.
	Yes / No – Chapter 2 contains detailed information regarding the 'Matters of Significance to Maori', but no specific sites identified on plans etc.	N/A	N/A	Within Chapter 3 – Water Module there are specific policies relating to waahi tapu, however all referenced around the obligations under s6 of the RMA.	No – no reference to any waahi tapu areas.
	No	N/A	N/A	N/A	N/A – No Waahi Tapu Areas identified, no specific rules.
	Yes / No Chapter 3.15 Contains broad coverage of natural and cultural heritage provisions including Maori however nothings specific.	N/A	N/A	Yes / No Chapter 3.15 Contains broad coverage of cultural and Maori heritage provisions however nothings specific.	No specific 'rules' however there are several implementation methods that consultation with tangata whenua.
Cultural Landscapes	No specific cultural landscapes identified within the District Planning Maps.	N/A	N/A	Contains objectives e.g. 2.23, 2.24, 6.2 and 6.3 and policy 2.3.2 are specific to iwi and ensure that the cultural landscapes significant to Maori/iwi cultural values are protected. Also several other general objectives and policies that are generic RMA worded.	No specific cultural landscapes identified within the District Planning Maps, no specific rules relating to cultural landscapes.
	Yes / No – Areas protected by the Cave/Karst Overlay then ranked on a scale of significance from International – Average importance. Also Landscape Policy areas covering some areas. Very limited on the cultural perspective.	Areas are identified on the planning maps.	Further information provided within the District Plan appendices 6 and 8. Appendix 8 provides information regarding the ICOMOS New Zealand Charter for the Conservation of Places of Cultural Heritage Value.	General Objectives e.g. obj 11.3.8 very generically worded 'to avoid mitigate or remedy the effects landscapes. Does not relate to specific areas. However Policies such as 11.4.11 specifically relate to the identified karst/limestone features identified within the planning maps. In	Yes – Specific rules relating to the karst and graben and special landscape policy overlays.

NATURE OF HISTORIC HERITAGE	CONTAINED IN PLAN INVENTORY	DEGREE OF COMPLETENESS	ASSESSED ACCURACY OF INFORMATION	EFFICACY OF POLICIES AND OBJECTIVES	EFFICACY OF DISTRICT PLAN RULES
				addition objectives and policies within Section 12 are specific to the areas within the Landscape Policy Areas and mention historic landscape.	
	No specific cultural landscapes identified within the District Planning Maps. There are Landscape Policy Areas defined however the descriptions/ policies and objectives do not relate to cultural values more visual amenity and aesthetic values.	N/A	N/A	N/A	No - specific cultural landscapes identified within the District Planning Maps, no specific rules relating to cultural landscapes.
	Yes – Landscapes where historic battles have been fought are identified and listed within Appendix C and various view shafts have been protected as identified on the planning maps.	Battle field view shafts/landscapes are identified on the planning maps.	Further information is provided within Appendix C regarding the significance of the view shaft.	Specific objectives and policies within Chapter 3.6 detail and protect the cultural and heritage values attached to landscapes, places and features.	Yes - specific rules within each zone section relating to the areas identified within the planning maps.
	No	N/A	N/A	Yes / No – Chapter 2 contains detailed information regarding the 'Matters of Significance to Maori', but no specific sites identified on plans etc	No.
	No – There is reference to regionally significant landscapes/ harbours but nothing relating to cultural landscapes.	N/A	N/A	N/A	Some rules relating to culturally important areas to Maori, i.e. marinas/harbours
	No	No	No	Yes/No – Within Chapter 3 there are policies relating to natural character of the coastal	Yes/No – Within Chapter 3 there are broad implementation method that relate to natural character of

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NATURE OF HISTORIC HERITAGE	CONTAINED IN PLAN INVENTORY	DEGREE OF COMPLETENESS	ASSESSED ACCURACY OF INFORMATION	EFFICACY OF POLICIES AND OBJECTIVES	EFFICACY OF DISTRICT PLAN RULES
				environment, general environment that cover landscape important to iwi. However very broad.	the coastal environment. Nothing specific identified.
Trees/Vegetation protected for historic heritage purposes	No. Nothing identified within the District Planning Maps.	N/A	N/A	Objectives and policies within Sections 6.2 and 6.3 contain specific provisions protecting all aspects of historic, cultural, historic buildings, iwi cultural and natural heritage values. However they are generically RMA worded. Also some indigenous vegetation provisions.	No - trees identified within the District Planning Maps. No rules relating to protected trees. However there are rules relating to the identification and protection of significant indigenous vegetation, and sites and or items of cultural importance.
	No. No trees register within the plan or identified on the planning maps. Some information is contained within the appendices (Appendix 9) regarding indigenous vegetation and botanical data of the type of species declining but no real reference for heritage purposes.	N/A	N/A	General Objectives e.g. obj 11.4.11 very generically worded 'to avoid mitigate or remedy the effects on indigenous vegetation.	No – No protected trees registered, no specific rules relating to protected trees.
	Yes – Section 53 contains full chapter detailing Conservation and Natural Resources which includes schedule of protected trees. Also indicated on the Planning Maps.	Each tree is numbered, coded for if it occurs singularly, given a physical address then scored. Also includes botanical and common name and identifies any nearby hazards.	Assumed to be accurate as a qualified arborist is required to undertake the scoring of each tree. Then information is recorded.	Some broad objectives and policies, however also some detailed ones relating to specific areas e.g. local towns. Policies go on to identify groups of trees that are of particular interest.	Yes - specific rules contained within Section 53 that cover protected trees.
	Yes – Appendix F contains full chapter detailing Notable	Each tree is numbered, and detailed description provided.	Assumed to be accurate as a qualified arborist is required to	Some broad objectives and policies, however also some	Yes - specific rules within each zone section relating to the

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NATURE OF HISTORIC HERITAGE	CONTAINED IN PLAN INVENTORY	DEGREE OF COMPLETENESS	ASSESSED ACCURACY OF INFORMATION	EFFICACY OF POLICIES AND OBJECTIVES	EFFICACY OF DISTRICT PLAN RULES
	Trees. Also indicated on the Planning Maps.		undertake the scoring of each tree. Then information is recorded.	detailed ones relating to specific areas e.g. local towns.	protection of the identified trees.
	No – There is no reference to specific vegetation/trees.	N/A	N/A	N/A	No specific trees/vegetation identified, or specific rules.
	No – There is no reference to specific vegetation/trees.	N/A	N/A	N/A	N/A

5 Tool Kit

In the tool kit below a range of methods for the identification and protection of heritage are examined. The first set of tools are primarily those used in Regional or District Plans for regulatory purposes or supporting regulation e.g. information contained on PIMS and LIMS. The second set of tools are a range of non-regulatory instruments that can be used to support regulation. A combination of the two both within New Zealand and internationally have been proved to be the most effective means of managing historic heritage.

Table 2 – Summary of Tool Strengths and Weaknesses Regulatory Approaches

Description of the Tool	Strengths/Requirements	Weaknesses/Drawbacks
<p>District or Regional Plan Inventories accompanied by objectives, policies rules, relevant maps and glossary – The listing/mapping of archaeological sites, waahi tapu, Pre and Post European Contact structures and cultural landscapes in the various statutory instruments available under the RMA, 1991.</p> <p>Used by - Almost all local authority plans contain European heritage inventories. Some Councils such as Gisborne, Otorohanga, Waitomo contain archaeological site inventories. Only Gisborne District Council appears to have a reasonably comprehensive waahi tapu schedule though some plans do contain a few small number of waahi tapu sites e.g. Manukau City Council.</p> <p>Iwi Management Plans are documents produced by iwi groups for the management of their resources. These documents are required to have regard taken of them in the statutory process.</p>	<p>General Strengths – all historic heritage</p> <ul style="list-style-type: none"> – Best and strongest form of legal protection for sites provided the identification process, objective, policy and rule framework in the relevant Plan is robust. – Avoids the risk of damage to sites as the existence of sites and the values sought to be preserved are clear from the outset. The information is contained in the relevant plan and comes through onto Project Information Memoranda (PIMS) and Land Information Memoranda. – Facilitates legal action in the event of unauthorised damage or destruction. – Facilitates the monitoring of sites for future management and protection as detailed information is held on the nature and condition of sites. Listing also enables a planned monitoring regime to be implemented. – Provides certainty for all parties in the development process. Developers are aware prior to purchase or development the nature and form of historic sites and process required before economic decisions are made. – Aids access to funding streams for preservation and/or restoration work. Many of the Funding Agencies require sites to be listed in Plans or on the Historic Places Trust Register before funding for conservation plans or other works can be granted. – Provided identification process is robust gives Heritage Protection Authorities, tangata whenua, heritage interest groups and Council a strong basis to protect heritage from damage or destruction where the effects cannot be avoided, remedied or mitigated. – Provides a high degree of credibility in the Environment Court <p>Waahi tapu and Archaeological Sites (applies in addition to the general provisions above)</p> <ul style="list-style-type: none"> – Provides an opportunity to build a long-term trusting relationship between 	<p>Waahi tapu and Archaeological Sites</p> <ul style="list-style-type: none"> – Tangata whenua may be reluctant to provide information unless there is a strong and trusting relationship with the Council. For this method to be successful protocols agreed to by both parties need to be put in place to for the management and use of data. Councils need to ensure that once protocols are signed that these are adhered to by all departments of Council and new staff need to be advised of these protocols for use. – Precise identification of sites runs the risk of sites being damaged or “looted”. There are no recorded cases to date of this having occurred with any of the TLA's who have listed sites in their plan – Tangata whenua have the right to protect intellectual property and appropriate protocols would need to be developed to ensure this occurs. A mechanism that has been used by Councils is to only identify the site with a generic descriptor e.g. pa. The detailed history of settlement is retained by tangata whenua on the understanding in the event of a site been challenged or a resource consent lodged that has an impact on the site that tangata will release the information to the extent necessary to address the consent. There are provisions in the RMA for hearings to be held “in camera” to allow this to occur. – Requires clear direction, training and good project management to ensure consistent and accurate data is collected during the research phase. This is imperative if the information is to be robust enough to withstand legal challenge. This in turn requires that tangata whenua be

Description of the Tool	Strengths/Requirements	Weaknesses/Drawbacks
	<p>Council and tangata whenua</p> <ul style="list-style-type: none"> – Facilitates consultation with tangata whenua as consultation requirements are evident from the outset and developers will need to undertake full and comprehensive consultation. Clear signals can be sent in the Plan that where there is any risk sites may be damaged or destroyed developers will need to have appropriate reports undertaken e.g. archaeological assessments, cultural impact assessments, conservation or maintenance plans prepared. – Builds on known site information and appropriately undertaken research work for the inventory can increase knowledge of sites and their values. – Reduces legal costs for tangata whenua to challenge decisions where developers appeal as Council is obliged to justify their reasoning for including sites in the plan. – Reduces time and cost input from tangata whenua on consulting on consents – Mechanisms can be developed to protect intellectual property rights such as the use of generic descriptors and key members of tangata whenua retain the detailed knowledge of individual sites – An alternative or complimentary to a District Plan Inventory is to place greater reliance on iwi management plans where these documents contain lists of significant sites. The RMA requires Councils to “have regard to these documents”. Iwi Managements Plans are generally prepared in a credible way and the information is often of a good quality. This approach complies with the intent of the Act and is also likely to meet iwi requirements. 	<ul style="list-style-type: none"> – resourced to undertake this work as it is time consuming, costly and may pull heavily on tangata whenua resources. – If tangata whenua retain the record sheets there is an onus on them to ensure data is properly collated and stored for future use in the resource consent or other legal processes. This requires long term commitment from tangata whenua. – Iwi Management Plans can vary in quality and reliability. The newer documents have improved in quality. A clear understanding needs to be developed with the iwi groups as to how this information will be used. There may be intellectual property issues. Iwi Management plans may not have been prepared for RMA purposes so this may affect the type of information contained in the documents and its relevance to the RMA process.
<p>Silent Files – These are files and information held by Council on sensitive waahi tapu and archaeological sites. There are no known cases in New Zealand where silent files are used to protect information relating to European sites. European sites are generally well</p>	<p>Waahi tapu and Archaeological Sites</p> <ul style="list-style-type: none"> – The iwi perception may be that the information is protected from the general public. This perception is often enforced through the existence of a formal protocol or information storage agreement signed between the parties. The “protocol” generally requires iwi to provide further 	<ul style="list-style-type: none"> – Silent files are considered to be an insecure way of managing information and can contribute to a substantial breakdown in relationships between the Council and iwi. Silent files are negatively perceived by landowners, developers and the wider community. The major

Description of the Tool	Strengths/Requirements	Weaknesses/Drawbacks
<p>known and openly recorded. The information contained in a silent file is generally used during the consent process to warn of risks to heritage sites but is not publicly available. Silent files may be used on PIMS and LIMS but detail is generally not included in Regional and District Plans. Used by – Very few Councils still make use of silent files. Many like Manukau City Council have abandoned their usage.</p>	<p>advice/information once the silent file is triggered through the resource consent process.</p>	<p>negatives are:</p> <ul style="list-style-type: none"> – Security of information held by Council cannot be guaranteed. Should a member of the public formally request information held by Council under the Local Government Official Information and Meetings Act, 1987 there is a high risk that Council will be legally required to divulge all information they hold. The Act would override any common law issues around protocols and agreements with iwi. Information held in silent files cannot be guaranteed to remain confidential. In addition S42 of the RMA has not been extensively tested in terms of ascertaining the confidentiality of material through the hearings process. – Unless there are clear District Plans rules to accompany silent files the use of the information is hard to implement, difficult to monitor and impossible to enforce. – Silent files place Council in a difficult legal position with regard to the issue of PIMS and LIMS. Council are legally obliged to disclose all information they hold. In the event of legal action, should Council not have fully divulged all information in their possession liability issues could result – Silent files are not transparent and landowners do not have full and reasonable access to information about their property. This does not allow reasoned decisions to be made development options. Without full disclosure of information there can be serious impacts on land values and there is potential for compensation to be sought through the Environment Court and Land Valuation Tribunal. – This is a poor mechanism for site protection as

Description of the Tool	Strengths/Requirements	Weaknesses/Drawbacks
		<p>knowledge of sites may only come to light on sale or purchase or through the resource consent process. Considerable damage could be done to sites through routine permitted work e.g. farming activities that require no legal approvals. Without full landowner knowledge of sites there can be no expectation that they can be protected or maintained.</p>
<p>Sensitivity Zones and Buffers – There are two kinds of sensitivity zones and buffers :</p> <ul style="list-style-type: none"> – Blanket buffering or zoning of an entire area or large tract of property – Much smaller sensitivity zones or buffer zones around specifically identified areas. – The buffer is used to trigger the resource consent process when development is proposed to occur within the buffering area. Buffering has been used in some District Plans to cover data inadequacies. Some Council's have attempted large scale buffering and others have used small specific buffers particularly around archaeological sites. Buffering is common around archaeological sites to accommodate the limitations of the NZAA data – typically a 100m buffer around the site. The extent of buffers around NZAA identified sites has decreased in size in areas where the NZAA upgrade project has been undertaken as the quality and accuracy of data has been improved. Buffering is commonly used in large forestry areas. A buffer is placed around a site to ensure when felling occurs around the site accidental damage does not occur. Used by Auckland, Wellington and Gisborne City Councils 	<p>Large Area Sensitivity Zones or buffers</p> <ul style="list-style-type: none"> – Large scale buffering protects the intellectual property around sites as well as protecting specific site locations. – Requires early consultation on resource consents <p>Small Area Sensitivity Zones or buffers</p> <ul style="list-style-type: none"> – The sensitivity area or buffer although smaller in size tends to achieve the same goal of protecting the intellectual property around sites as well as protecting specific site locations. This approach also requires early consultation on resource consents. – More certainty on the area of land affected mitigates some of the landowner concerns, reduces the impact on land use and land value, focuses consultation on the area that may be affected by land use activity and only requires consultation if there is likely to be an “adverse effect”. – Small scale buffers and sensitivity zones can be extremely effective provided the District Plan process is rigorous and consultation focuses on a one-on-one basis with landowners. Where iwi are prepared to invest in the plan process and work closely with Council and landowners the risk of Environment Court appeals is reduced and landowners on the whole develop a respect for the site and offer invest in its protection and maintenance. An example of this approach is the Gisborne District Council Plan where 3000 archaeological sites and 200+ waahi tapu sites were recorded in the District Plan without a substantive Environment 	<p>Large Area Sensitivity Zones or buffers</p> <ul style="list-style-type: none"> – Large scale buffers potentially have a substantial impact on the value and marketability of land as permitted activity use is severely curtailed. Landowners are forced into potentially costly and time consuming consent processes. – The large scale nature of the sensitivity area or buffer introduces a substantial element of uncertainty into the development process. This level of uncertainty tends to lead to fractious relationships between landowners, Council and iwi. Use of large scale buffers is not transparent – A large scale buffer, if it were to be defended, is extremely reliant on the quality of information held by the iwi group. Council needs to have a high level of faith in this information and be prepared to defend the buffer. This approach can lead to vigorous and personal attacks on the iwi during the plan process. A Manukau City Council variation in the late 1990's is a very good example of this. – From an iwi perspective large scale zones or buffers require a substantial input of time and resource as the number of applicants and consents increase dramatically and iwi are obliged to consult on these. Where a small

Description of the Tool	Strengths/Requirements	Weaknesses/Drawbacks
<p>and Otorohanga District Council in respect of archaeological sites.</p>	<p>Court appeal. A 100m buffer zone was applied on a number of these sites. As NZAA upgrade material became available the extent of the buffer was adjusted to improve accuracy and certainty.</p> <ul style="list-style-type: none"> - The use of clearly demarcated buffers and sensitivity zones particularly in a rural setting encourage landowners to avoid the site and thus the resource consent process. This "avoidance" opportunity cannot occur with large scale buffers. - Small scale sensitivity zones can provide both certainty and minimise impacts on land value and land use provided they are accompanied by clear rules. Specific rules around ground disturbance can set out the framework by which the resource consent process will be guided. 	<p>number of people within the iwi are managing this process, consultation burn-out can occur. Iwi are then obliged to consult over a large area where their interest may be limited to a small section of a property.</p> <ul style="list-style-type: none"> - Council's who have attempted this approach in the past have received very negative publicity and have been forced to withdraw or partially withdraw their District Plans – examples include Tasman District, Far North District Council, North Shore City Council and Manukau City Council. Landowner perception is that of an unsubstantiated land grab. This approach in the first generation of RMA plans resulted in reviews of the RMA driven by the likes of Owen McShane and organisations such as Federated Farmers. - This approach is resource intensive from a Council perspective as the number and nature of consents increase. There is also a greater likelihood of public notification. <p>Small Area Sensitivity Zones or buffers</p> <ul style="list-style-type: none"> - Industry players and particularly the forest industry have vigorously fought buffer zones and sensitivity areas irrespective of the scale. The argument centres on certainty. - Buffers, if they are reasonably contained in a rural environment tend to be less vulnerable to attack as the impact on land use and land value is minimised. The use of buffers in an urban zone has more serious economic implications. Small scale buffer zones are only effective if they are accompanied by a rule framework based on adverse effects. District Plan rules are simpler to write and more robust for small scale sensitivity zones and

Description of the Tool	Strengths/Requirements	Weaknesses/Drawbacks
		<p>buffers as the specificity allows targeting of rules and allows for the establishment of permitted activity standards</p> <ul style="list-style-type: none"> - This approach is only effective if the Council is confident about the quality and accuracy of information provided by the iwi group. <p>General to both large and small scale buffers and sensitivity zones</p> <ul style="list-style-type: none"> - Neither large nor small scale buffers are effective in protecting sites unless they are accompanied by rules that trigger the resource consent process. The rules generally need to be triggered by land use disturbance. This ensures that all activities that disturb ground are covered in the consent process. This is the only mechanism by which building consents can be captured. - Rules generally trigger both a consultation process and a requirement to undertake an archaeological and/or cultural report. This may be an affordable option for small scale buffers but for large scale buffers this can have a substantial impact on the development cost even though only a small portion of the land may be affected
<p>Heritage Alert Layers – Heritage Alert layers are a predictive technique used to identify areas of risk for archaeology and waahi tapu from subdivision and development activities. It is used primarily to identify areas where there is a high likelihood for waahi tapu and archaeological sites to occur. It is a GIS technique where parameters such as slope, soil type, proximity to food gathering areas, navigable rivers, coastlines, temperature, known trails, strategic and defensive strengths etc are used as a means to predict where</p>	<ul style="list-style-type: none"> - It is a risk management tool for the protection of both waahi tapu and archaeological sites. - It is a technique that identifies high areas of risk. The use of this technique can highlight risk areas while removing large areas of minimal risk from the resource consent or other legal processes. It is a technique that focuses attention on areas where there is a risk of damage to sites. - It is an effective means to determine what information or level of information is required in the consent process; i.e. archaeological and cultural impact assessments will be required in the risk area but these 	<ul style="list-style-type: none"> - The technique is more effective for archaeological sites than waahi tapu. Archaeological site risk can be more easily determined through the application of scientific principles associated with human habitation. Waahi tapu sites often have a deep spiritual dimension that cannot be fully addressed through scientific measures. - The predicative nature of the alert layer has an inherent degree of uncertainty. The heritage alert layer is not normally used as a permitted activity standard because

Description of the Tool	Strengths/Requirements	Weaknesses/Drawbacks
<p>habitation may have occurred. Used by Gisborne City and Transit New Zealand and is being explored by Christchurch City and Environment Canterbury.</p>	<p>matters are not considered outside of the risk area. This can be a useful indicator of how resources should be employed. It is also useful tool to increase efficiency in the consent process, result in cost savings for developers and avoid consultation overload for iwi groups.</p>	<p>of this uncertainty but rather as an assessment criterion in the consent process. Once in the consent process it may trigger information requirements for an AEE (e.g. archaeological or cultural assessment). It is also a trigger for consultation. It aids planners in assessing resource consents as it indicates the level of risk of subdivision and development to historic sites/areas or landscapes.</p> <ul style="list-style-type: none"> - Heritage Alert layers often cover a fairly large area but because they are seldom used as a District Plan rule the difficulties around large scale buffers and sensitivity areas are largely avoided. - Heritage Alert layers are a scientific approach to risk management and their efficacy and accuracy are reliant on the layers being prepared by a competent person. There can be a reasonably high cost associated with the preparation of the alert layers. - Alert layers are only effective once triggered by a resource consent and do not prevent damage to sites unless triggered e.g. they are not useful in assessing damage that could result from a building consent allowed as a permitted activity.

Below is a Table of non-regulatory instruments most appropriate to a predominantly rural setting. A range of non-regulatory instruments should accompany the regulatory in order to achieve the most effective outcomes.

Table 3 – Summary of Tool Strengths and Weaknesses Non-Regulatory Approaches

Description of the Tool	Strengths/Requirements	Weaknesses/Drawbacks
<p>Heritage Covenants – These are voluntary legal instruments used to provide for the protection, conservation and maintenance of a heritage place with such terms and conditions as agreed to by the parties concerned (e.g. s.6 Historic Places Act 1993). Covenants are registered on the property title and can have effect in perpetuity or for a lesser specified term. Land may also be identified and set aside as Maori Reservations under Te Ture Whenua Maori Act, 1993. Covenants are site specific and are normally surveyed and site boundaries are accurate. Used by Christchurch City Council</p>	<ul style="list-style-type: none"> – This technique ensures the ongoing protection of a place for as long as the covenant/reservation is in place. This could potentially be in perpetuity. Covenants are a strong mechanism that if carefully crafted are difficult to break and provide long-term protection. – Covenants generally require the approval of all named parties prior to any work being undertaken so all parties are involved in any development within the covenant area often producing multi-party agreements. – Covenants are generally crafted around the values of a place and are successful in protecting those identified values. – In the setting up of a covenant provision can still be made for appropriate land use. This technique, therefore, does not necessarily freeze use of the land. – There are a range of covenants that can be applied e.g. Queen Elizabeth II Trust or covenants under Te Ture Whenua Act. QEII often assist with costs of registering the covenant e.g. survey or legal fees so that the landowner does not carry the total expense. Covenants can only be used with the agreement of the land owners. – Covenanting, although a non-regulatory method can be established as the result of a condition on a resource consent. 	<ul style="list-style-type: none"> – Depending on the nature of the covenant and the degree of restriction potential buyers could consider this a major encumbrance on the land with a consequential negative impact on value. – Depending on the nature of the covenant land may be frozen for a range of uses and may also have maintenance expectations attached that can be costly.
<p>Strategic Property Purchase – A Council may purchase an individual building, groups of buildings or other heritage places to facilitate a strategic heritage and/or urban design outcome (e.g. Area revitalisation, civic reuse, provision of public access, parks and reserves).</p>	<ul style="list-style-type: none"> – This approach provides a high degree of certainty for the long term protection and management of the historic heritage resource. It is more commonly used to acquire buildings but can also be used in the strategic acquisition of land. – It can revitalise significant heritage places and act as a catalyst to encourage adjacent property owners to upgrade their properties or be 	<ul style="list-style-type: none"> – This approach can be costly and may need to be a specified expenditure item in the LTCCP. It is a tool used only for the acquisition of land or buildings of considerable significance. It is a tool that is not used with any frequency.

Description of the Tool	Strengths/Requirements	Weaknesses/Drawbacks
<p>It can also include acquisition of private land without heritage values in exchange for heritage protection of listed property / covenants i.e. a land swap arrangement. Used by Auckland, Wellington, Christchurch, Dunedin and Nelson City Councils.</p>	<p>used as a show piece on how to appropriately manage and maintain archaeological sites and waahi tapu.</p> <ul style="list-style-type: none"> - It provides Councils with an opportunity to exercise more explicit control over the redevelopment of heritage resources and how they integrate into the public environment. - Land may also be acquired and then invested under the Te Ture Whenua Act 	<ul style="list-style-type: none"> - Council acquisition of land can be politically contentious - In addition to the acquisition cost there may be costs associated with subdivision and legal fees.
<p>Heritage Advisory Committees – These are generally established to advise a local authority on processes and actions to more effectively identify, promote, conserve and manage all aspects of heritage within its jurisdictional area. The composition of these committees generally consists of Councillors, Council staff, members of associated organisations (e.g. NZ Historic Places Trust, iwi, building owners, historic societies and specialist practitioners. Used by Hastings, Wanganui, North Shore City, Hutt City and Tararua District Councils.</p>	<ul style="list-style-type: none"> - This method encourages a strong community based approach to the promotion and management of local heritage. - It can lead to better informed Council/staff regarding issues and options relating to the protection and management of local heritage resources. - It provides a vehicle to capitalise on community knowledge, expertise and enthusiasm. - It can result in more effective identification and prioritisation of tasks and allocation of resources. 	<ul style="list-style-type: none"> - The success of these Committees is dependant on local people with suitable expertise being available to assist. - The mandate needs to be clearly established at the outset or there is potential for the committee by an individual or group with a specific interest or driver.
<p>Technical Bulletins - Technical bulletins provide technical guidance and advice on specific conservation requirements/approaches to adaptation and management of heritage places (e.g. conservation plans (buildings and sites), earthquake strengthening, fire safety, disabled access). Historic Places Trust have produced excellent quality bulletins in the past on subjects such stone, masonry and wood conservation. Used by HPT, Auckland Regional Council and North Shore City Council.</p>	<ul style="list-style-type: none"> - Provides specialist information to better inform conservation practice. Encourages higher standards of conservation treatment and practice. - This can be a valuable means of helping to prevent damage to buildings and sites by clearly indicating appropriate techniques. 	<ul style="list-style-type: none"> - For the bulletins to be effective they need to be prepared by a professional with appropriate knowledge and expertise. Their preparation can be costly and their appeal limited. - To be effective bulletins need to be carefully targeted i.e. a bulletin on archaeological site management on pastoral land in a rural area with a number of archaeological sites may be a valuable investment.
<p>Counter Information / Educational Resources / Use of Council Media– This is information prepared or distributed by a Council. This is general information on</p>	<ul style="list-style-type: none"> - It is a cost effective means of raising public awareness of heritage requirements. - There is a reasonable amount of information available that can be used / 	<ul style="list-style-type: none"> - The information needs to be maintained and updated and therefore requires a degree of commitment of ongoing resources. If material needs to be prepared

Description of the Tool	Strengths/Requirements	Weaknesses/Drawbacks
<p>heritage protection and management and associated processes. Material that could be produced includes information on resource consent requirements for listed places, heritage impact assessments, archaeological authorities, heritage incentives, heritage related contacts (e.g. Iwi, NZ Historic Places Trust, NZ Archaeological Association). Rodney District Council, North Shore City Council, Auckland Regional Council, Dunedin and Christchurch City Councils.</p>	<p>distributed without the Council having to go to the expense of preparing it.</p> <ul style="list-style-type: none"> - There are opportunities for Councils in similar catchments to join together to produce regional information that is shared, thus further reducing the cost. - There are a number of opportunities to promote the use of this information through the use of the web. 	<p>there will be cost associated with it.</p> <ul style="list-style-type: none"> - The information is only of value if it is promoted and easily available.
<p>Heritage Recognition Programmes - This is a programme whereby important heritage places are identified through such means as plaques or the installation of interpretive panels. Used by Wellington and Hutt City Councils, New Plymouth and Gisborne District Councils.</p>	<ul style="list-style-type: none"> - These programmes increase community awareness of important local heritage places and why they are significant. They have potential to be integrated with heritage or tourism trails. - They provide a visual clue to the places of identified heritage value in an area. - It is an ideal opportunity to use bilingual signage. - On occasion groups such as the Local Branch of the Historic Places Trust may have some funding available for this kind of work. - New development may provide an opportunity to include signage or interpretation. Town centre upgrades and establishment of walking paths and trails provide perfect opportunities to use this approach. This is a low cost item that can be included in the planning stage that adds considerable value to the final design. 	<ul style="list-style-type: none"> - There is a cost associated with this but it can be minimised by considering it as part of an overall design for new works or by seeking funding from a funding agency or group. - Caution needs to be taken in preparation of the wording to ensure that it is culturally appropriate. Cost may be incurred as consultation with a range of parties is generally required. - If the signage or interpretation is on private land, landowner agreement needs to be obtained as well as statutory approvals obtained e.g. Building Act consents and approval from other regulatory bodies such as Transit New Zealand.
<p>Heritage Trail Publication and Routes – This is a way to inform locals and visitors of places of heritage interest in an area. The material is generally structured in a way that provides the reader with a brief historical background to the area along with a guided walk/s that identify places of heritage value grouped around a thematic or geographic framework.</p>	<ul style="list-style-type: none"> - This mechanism aims to enhance the heritage experience for visitors and locals alike. It can be a positive means to promote an area and may have a tourism framework developed around it. It is a positive means of promoting a place or area - Like heritage recognition programmes it may be cost effective to develop the trail on the back of a new development or redevelopment 	<ul style="list-style-type: none"> - It involves moderate initial establishment costs in terms of historical research and publication. - Information and signage need to be regularly reviewed to ensure accuracy and to incorporate any new information. - The drawbacks are similar to those of heritage recognition programmes.
<p>Heritage Training – This is a means of introducing</p>	<ul style="list-style-type: none"> - It increases organisational/community awareness of heritage issues and 	<ul style="list-style-type: none"> - There is a cost associated with training

Description of the Tool	Strengths/Requirements	Weaknesses/Drawbacks
<p>short, intensive training courses targeted towards informing and educating relevant staff/community/iwi on specific aspects of heritage related professional practice and management.</p> <p>It provides a means to up-skill key stakeholders on the fundamentals of heritage identification, protection and management.</p>	<p>appropriate responses and builds knowledge and capacity in the local community</p> <ul style="list-style-type: none"> - If used in conjunction with grants or other funding it can dramatically improve the quality of information delivered to Council - Training increases staff capacity and ability within Council particularly if there are staff members who have knowledge or interest in the area. 	<ul style="list-style-type: none"> - The training needs to be delivered at an appropriate level and must meet the outcomes required by Council
<p>Funded Technical Advice – This is the provision of funding to landowners to obtain appropriate specialist technical advice regarding conservation and management related issues (e.g. Maintenance, repair, alterations, additions).</p> <p>This service can be offered in a variety of ways including:</p> <ul style="list-style-type: none"> - On an “as is and when required” basis through either a dedicated internal resource or contracting in the necessary expertise; - Operation of a heritage “help desk” on a dedicated weekly/monthly basis; - Establishment of tailored clinics / seminars dedicated to addressing a particular local conservation or management issue. <p>Used by Wellington, Christchurch and Palmerston North City Councils, New Plymouth, Thames Coromandel, Timaru and Matamata-Piako District Councils.</p>	<ul style="list-style-type: none"> - This encourages owners to take advantage of free or partly subsidised specialist technical advice at the outset of a project in an attempt to achieve positive heritage outcomes - It is an excellent means to provide owners/developers with quality advice early on in the development process and is proven internationally to considerably improve heritage outcomes. - The level of resourcing is able to be tailored to suit budgetary parameters and is relatively easy to implement. - Good advice early on expedites resource and building consent processes thereby reducing cost and time delays. 	<ul style="list-style-type: none"> - Council needs to ensure that the specialists that are used are technically capable and should be appointed/approved by Council prior to any work commencing. - Rules need to be clear around the illegibility for funding and budgets need to be tightly set and controlled.
<p>Heritage Awards – This is public acknowledgement and recognition of “work well done”. Projects that could be considered include, for example, a well researched and sensitively executed conservation initiative or an education/promotional programme that extend</p>	<ul style="list-style-type: none"> - This technique promotes voluntary conservation efforts and encourages the development of a strong community stewardship ethic. - It is cost effective and relatively simple to administer. - It promotes a sense of goodwill and individual and community pride. 	<ul style="list-style-type: none"> - It can be time intensive to establish but cost effective and simple once running. - The evaluation criteria need to be clear and transparent if used in any form of “competition” format - There are costs associated with promoting the scheme

Description of the Tool	Strengths/Requirements	Weaknesses/Drawbacks
<p>understanding and appreciation of local heritage. Recognition could be made through such means as:</p> <ul style="list-style-type: none"> – Attaching a commendation plaque to a building that has been conserved; – Issuing a certificate of recognition; – Issuing a small monetary or “in kind” reward; – Appropriate media coverage – Used by Invercargill City Council, Manawatu, Central Otago, Timaru and Marlborough District Councils 		<p>and is not particularly effective unless it forms part of a more comprehensive initiative.</p>
<p>Research Grants– Councils may provide financial or other support to assist identifying, recording, documenting and publishing information about heritage places. A common New Zealand example is the provision of resources to iwi groups to undertake waahi tapu research or historic societies and groups to prepare background information for European Heritage Building Inventories or for the preparation of conservation plans. Used by New Plymouth, Manawatu, Waimate, Timaru, Tasman and Kapiti Coast District Councils, Wellington, Christchurch, North Shore City Councils and Auckland Regional Council.</p>	<ul style="list-style-type: none"> – This is a valuable means of obtaining information both for regulatory and non-regulatory purposes. – The support does not necessarily need to be financial. It could also be the sharing of staff resources or other critical information. – This is often a good first step to fostering co-management arrangements. – It is a effective means of promoting best practice outcomes – It is an effective way to promote voluntary conservation efforts by landowners and community groups. 	<ul style="list-style-type: none"> – There need to contractual arrangements around research grants so the parties are aware what is required to be delivered and the quality anticipated. – Councils need to be sure in providing research grants that the information they require is delivered to an appropriate standard for the desired use or it can be costly with poor outcomes – The research proposal or briefing needs to be robust and clear so disputes do not arise on conclusion of the work.
<p>Fee Waivers – This involves full or partial remittance of fees or financial or development contributions associated with an application for a resource consent, subdivision, or building consent where the proposal contributes towards the conservation of a listed heritage resource. Used by Rotorua, Masterton, Gisborne, Central Otago, Timaru, Grey District, Marlborough District Councils, Auckland and Christchurch City</p>	<ul style="list-style-type: none"> – This can be very effective when used in conjunction with a resource or building consent. It is cost effective for the Council as it only focuses on listed heritage resources and is only incurred when new development or subdivision occurs. – It may be used as a negotiating tool to achieve positive outcomes through the consent process; e.g. a developer may be persuaded by a financial incentive to reconsider parts of a scheme or development in order to take advantage of the waiver 	<ul style="list-style-type: none"> – Fee waivers may impact on projected levels of anticipated revenue depending on the nature and extent of the applications processed. – The waiver process needs to be clear, transparent and applied in a consistent manner if the process is not to become politicised.

Description of the Tool	Strengths/Requirements	Weaknesses/Drawbacks
Councils.	<ul style="list-style-type: none"> - Fee waivers are relatively easy to administer once clear guidelines are established. Guidelines need to be clear and transparent from the outset. 	
<p>Heritage Grants and Funds – This is mechanism whereby non-refundable financial assistance is given to owners of heritage resources, or to those with an interest in appropriate management of these resources, to undertake work/projects that will improve the physical condition and/or understanding of heritage places. Potential works/projects that could be eligible for consideration include: preparation of conservation plans; earthquake strengthening; approved maintenance, repair, restoration or interpretation of registered/listed places; façade improvement; heritage paint schemes; heritage related research, seminars and exhibitions. Used by New Plymouth, Manawatu, Waimate, Timaru, Tasman and Kapiti District Councils, Wellington and Christchurch City and Auckland Regional Council</p>	<ul style="list-style-type: none"> - These are relatively simple to administer once a framework is in place to determine what activities will be illegible for funding and fair and equitable criteria are developed for assessing grant applications - This approach enables local authorities to exercise direct control over the amount of public funding available (i.e. explicit expenditure decisions are made against a predetermined budget). - Often small amounts of funding can provide an incentive for work to be undertaken. - Grants funding from a Council can also be used in conjunction with other funding sources and this can lead to significant amounts being raised for major projects 	<ul style="list-style-type: none"> - Unless a tight set of rules based on sound heritage outcomes at the outset there is a high risk of inappropriate activities being funded. Transparency is essential if these grants or funds are to be effective
<p>Rates Rebates / Remissions – This involves full or partial waiver or remission of rates applying to, for example, specific categories of heritage property (e.g. Commercial properties, Category 1 listed places), heritage properties located within a discrete geographic area across the full portfolio of heritage properties identified in a city/district. Used by Dunedin City Council and New Plymouth District Council.</p>	<ul style="list-style-type: none"> - Provides certainty for landowners and depending on the scale of the rebate may be a major incentive to protect or maintain historic heritage. This technique is only feasible either for very large tracts of land or smaller tracts where there is high land value 	<ul style="list-style-type: none"> - Rebates or remissions affect the level of revenue collected by the local authority. - To make provision for rates rebates/remissions a resolution of Council is generally required. This process can easily be politicised. - Often with small heritage sites on large rural tracts of land the level of \$ rebated is so small as to be meaningless. - Unless carefully managed the cost of administration can outweigh the benefit to the landowner.

6 Management Framework

6.1 Options for Managing Risk of Damage to Unknown Sites

There are a number of options for managing the risk of damage to unknown or unrecorded archaeological and waahi tapu sites. Unfortunately none of these measures guarantee protection but if a number of tools are used in conjunction with each other then a reasonable risk profile may be able to be achieved. The success of these measures is largely dependant on training and awareness. ADP's are generally not applied to buildings and structures.

6.1.1 Accidental Discovery Protocols (ADP)

Accidental Discovery protocols are put in place generally prior to any physical works commencing. It is an attempt to avoid or minimise damage to archaeological or waahi tapu sites in the event of material or remains being unexpectedly discovered during physical works. ADP's do not prevent damage but can certainly minimise the extent of any damage. ADP's have their roots primarily in the Historic Places Act 1993 where it is an offence to alter, modify or destroy archaeological site. The process that the Trust requires be implemented is clearly set out in terms of stopping work, securing the area and advising the statutory authorities. The use of ADP's has evolved over the last 10 years. They may be simple agreements/requirements or more complex arrangements moulded around a specific set of works or tangata whenua expectations. ADP's may be entered into voluntarily or be part of a statutory process. They are applied in a number of ways including:

- Conditions on resource consents required by the Council or requested by New Zealand Historic Places Trust
- Part of a site management plan required by a resource consent condition
- Resource consent applicants voluntarily entering protocol arrangements with tangata whenua as part of the consultation/consent process
- Large organisations such as Transit New Zealand may conclude protocols with tangata whenua as part of Memoranda of Understanding
- Precautionary measures contained in contract documents for physical works

We have examined a range of protocols such as an Opus developed protocol for Opus managed major works, Transit New Zealand protocols, Ngapuhi Te Runanga A Iwi O Ngapuhi protocols within the Far North Landscapes Guide, Forestry Industry protocols, Kaikoura District Plan protocols and an International Protocol from the College of Forestry. We have included a model example in Appendix A.

6.1.2 Advisory/Consent Footnotes

Many Councils use advisory footnotes on their consents warning consent holders about their legal obligations under the Historic Places Act 1993. This is best practice and should be continued. The wording varies from Council to Council. Below are some examples:

Otorohanga and Waikato District Council Consents:

"The consent holder shall ensure that, should any human remains or archaeological items be exposed while undertaking works to give effect to conditions of this consent, works in that area will cease immediately. The Police, New Zealand Historic Places Trust, and Kaumatua representing the local Tangata Whenua shall be contacted and work shall not recommence in the affected area until any necessary statutory authorisations or consents have been obtained"

Waipa District Council wording is more comprehensive:

"Discovery of Archaeological or Culturally Significant Finds

Where during earthworks, any archaeological features, artefact or human remains are accidentally uncovered or are suspected to have been discovered, the following protocol must apply:

(i) All works within the vicinity must cease immediately.

In cases other than suspected human remains:

(ii) The contractor must immediately secure the area and advise the NZ Historic Places Trust of the occurrence.

(iii) The consent holder must consult with a representative of the relevant iwi authority and the NZ Historic Places Trust to determine what further actions are appropriate to safeguard the site or its contents.

Where human remains are suspected:

(iv) The contractor must take steps immediately to secure the area in a way that ensures human remains are not further disturbed.

(v) The consent holder must notify the NZ Police of the suspected human remains as soon as is practicably possible after the remains have been disturbed. The consent holder must notify the relevant iwi authority and the NZ Historic Places Trust within 12 hours of the suspected human remains being disturbed or otherwise as soon as practicably possible.

(vi) Excavation of the site must not resume until the NZ Police, NZ Historic Places Trust and relevant Kaumatua have each given the necessary approvals for excavation to proceed."

The Waipa District Council example is preferred as it is explicit and may be easier to enforce if there is a breach of consent conditions or a prosecution under the Historic Places Act 1993.

6.1.3 Consent Checklists

A considerable amount of damage to archaeological sites and waahi tapu sites can be avoided by Council staff being aware of issues and looking for triggers when processing resource and building consents. These triggers may prompt them to ask questions, promote consultation or request further information under S92 RMA.

In the absence of heritage alert mapping that would manage the risk a rudimentary and somewhat crude checklist/question process could be used. The thought process recommended for processing officers particularly in smaller Councils could include consideration of the following elements:

Consideration	Checkpoints	Rationale
Geographic Location	Is the application located in the Coastal Belt or in close proximity to an estuary or lagoon? Are there permanently flowing watercourses? Are these watercourses likely to have been navigable?	The attached Map in Appendix B shows the distribution of known archaeological sites in the Aotea and Kawhia Catchments. The map clearly shows the strong correlation between settlement pattern and geography. Habitation in New Zealand occurred primarily along the coastal strip and adjacent to waterways particularly those that were permanently flowing and navigable. These locations provided year round access to food, fresh drinking water, water for crop irrigation and were subject to a more temperate climate with good access. If an application is located in these areas there is a much higher likelihood of the existence of archaeological and waahi tapu sites.
Known Information	Are there any HPT Registered sites on the property or in the vicinity? Are there any NZAA recorded archaeological sites on the site or in the vicinity?	Known sites are a good indicator of habitation. Sites seldom occur in isolation.
Previous consent knowledge	Have waahi tapu or archaeological sites been discovered through other consent processes in the vicinity of the application?	Previous consent knowledge should not be ignored. Council should slowly start to develop a simple database of information obtained from the consent process so that institutional knowledge does not solely sit with individual officers.
Nature of the consent	What is the extent of the ground disturbance necessary to implement the consent, if granted?	The degree and extent of ground disturbance should be considered. Although subdivision applications are a paper exercise they can result in substantial earthworks – preparing building platforms and installing infrastructure. The greater the level of earthworks or ground disturbance the higher the risk of damage to sites.
Physical Markers	Are there significant physical features or vegetation on the site?	When undertaking the site inspection look for significant physical features e.g. rock outcrops, stands of indigenous vegetation, caves, springs or any clearly visible archaeological materials such as shell layers or bands of

Consideration	Checkpoints	Rationale
		charcoal. These markers may indicate that the site is significant and these features are markers.
Nature of adjoining Land uses	What is the surrounding land use? Does the site adjoin a cemetery or a piece of land where there are marked burials?	Burial sites especially historic sites often don't fall neatly into surveyed boundaries. If there are grave sites in the vicinity this may indicate a need to be cautious.
Title	Is the adjoining land Maori Land or Freehold Title?	If there is considerable Maori owned land in the area this is an indicator that Maori have owned and inhabited the land for generations. This may be an indicator of historic settlement?

6.1.4 District Plan Rule Development

The wording of District Plan rules can aid the management of historic heritage. If a precautionary approach is adopted Council will have a broader mandate on which to assess historic heritage issues:

- Make sure waahi tapu and archaeological site/area policy clearly sets out expectations. Policies that avoid, remedy or mitigate damage to archaeological sites and waahi tapu mirrors the Act but fails to assist consent planners in processing consents. Policy needs to add to the Act and to be clear on the expected outcomes and processes.
- Make sure controlled and restricted discretionary activities in high risk zones allow for historic heritage to be a matter to which Council limits or restricts its discretion.

Examples of the above are set out below. The policy is a partial (and modified) extract from the Gisborne District Council Regional Land and District Plan

In considering whether to require an archaeological survey or cultural impact assessment for any activity that requires land disturbance Council shall have regard to the following:

- *the nature, form and extent of the activity;*
- *the likelihood of damage, modification or destruction of an archaeological site taking into account:*
 - * *the nature of the existing development;*
 - * *the extent to which there has already been land disturbance;*
 - * *results of any archaeological survey carried out by a qualified archaeologist.*

In the event of an application to damage, modify or destroy an archaeological site the Council shall have regard to the following assessment matters to ensure that adverse effects are avoided, remedied or mitigated:

- *alternate methods and locations available for applicants to carry out the works or activities;*
- *the nature, form and extent of the activity and the likelihood of damage, modification or destruction of the archaeological site;*
- *the result of consultation with tangata whenua;*
- *the significance of the archaeological site to be assessed on the uniqueness of the site, representative nature of the site (i.e. the best example of a particular site type), its condition and the importance attached to the site by tangata whenua and the landowner;*

- *the findings of any archaeological assessment carried out by a qualified archaeologist. Such a report shall identify and provide an assessment of effects and proposals for avoidance or mitigation of effects, where applicable;*
- *the provisions of any relevant management plan where appropriate, whether the proposal meets the provisions of the ICOMOS New Zealand Charter for the Conservation of Places of Cultural Heritage Value;*
- *any conditions imposed in an authority issued under the Historic Places Act, 1993.*

To manage significant archaeological sites, to ensure that the resource is sustained to meet the needs of future generations with the test for significance being:

- *uniqueness of the site or representative nature of the site (i.e. the best example of a particular site type);*
- *condition;*
- *tradition/historic association*

Controlled activity and restricted discretionary activity examples are indicated below:

– Controlled Activity

“..I activities where the gross floor area is between 500m² and 5000m² inclusive

Provided that:

1. The activity satisfies all general rules specified for a Permitted activity.

Council shall limit its control to the matters a) - f) specified below:

a) Amenity values

b) Human health and comfort

*c) **Heritage Values***

d) Parking, loading and traffic management

e) Safety, design and appearance

f) Continuous street façade and pedestrian frontage

–

– Restricted Discretionary Activity”

“Deer Farming that does not comply with the rules for Permitted activities in respect of:

a) Deer identification

b) Fencing

Council shall limit its discretion to the matters a) - d) specified below:

a) Standard of fencing and the ability to confine deer upon the site

b) Impact of grazing on heritage values

c) Potential effect on the values associated with natural character, indigenous biodiversity and landscape, including revegetation density and type

d) Location”

6.1.5 Predictive Modelling techniques

The most effective means of managing risk to unknown sites and particularly archaeological sites is to use predictive risk modelling. The advantages and disadvantages of this technique are set out in Table 2 Heritage Alert Layers. If a scientific risk based approach is adopted crude consent checklists such as that proposed in 6.1.3 can be eliminated. These modelling techniques have been proven to reduce the risk of damage to sites. Examples from the Gisborne District Plan and the Transit New Zealand Risk Model are contained in Appendix C.

6.1.6 Risk Tables

Another means of managing risk to unknown sites is to take an activity/ risk based view. The extent of ground disturbance is often a means of measuring potential risk of damage to sites. The Table below gives an indication of the kind of activities that may cause damage and a response to how that may be managed.

6.2 Risk Criteria – Risk Management Table

Activity	Nature Of Works	Action
1 New Activities of Major Nature in “Greenfields” Situation or Outside Disturbed Land		
<ul style="list-style-type: none"> – Construction of new infrastructure in areas where there has been no previous land disturbance. – Clearance of land for building platforms, change in land use (e.g. forestry to dairy), forestry harvesting in areas where there has been no previous land disturbance. 	<ul style="list-style-type: none"> – Earthworks: topsoil removal, cut, fill, embankments, batter slopes, drainage channels, bunding. – Gravel screening & chipping, vegetation removal – Stockpiling and disposal of materials 	<ul style="list-style-type: none"> – Contact NZ Historic Places Trust (NZHPT) & relevant iwi group to discuss specific concerns and expectations. Expect consultation to be an important component of the consent. – There is a likelihood that an archaeological assessment report (AAR), and / or cultural impact assessment report (CIA) may be requested, as appropriate. – An application to the NZHPT for an archaeological authority, pursuant to Section 11 or 12 Historic Places Act 1993 (HPA) may be required – Accidental Discovery Protocol to be included as a consent condition.
2 New Activities of Minor Nature in “Greenfield” Environments		
<ul style="list-style-type: none"> – Works associated with the construction of small scale structures e.g. farm sheds – Geotechnical investigation and testing – Minor earthworks and clearance of small areas of vegetation 	<ul style="list-style-type: none"> – Minor earthworks, vegetation clearance, batters, drains – Drilling, excavation of test pits 	<ul style="list-style-type: none"> – Contact NZHPT & iwi if in the coastal environment, in proximity to recorded sites or along the banks of a permanently flowing river to discuss specific expectations. – Depending on the outcome of consultation further information may be requested – Accidental Discovery Protocol to be included in all contracts
3 Repair, maintenance and works on previously disturbed land. No ground disturbance outside of already disturbed areas		
<ul style="list-style-type: none"> – Maintenance, sealing, repair, of infrastructure or buildings, erosion control, vegetation trimming, farming on previously farmed land, construction of culverts – Removal or demolition of existing structures – Use of cleanfill sites 	<ul style="list-style-type: none"> – Water blasting, bitumen burning, – Minor earthworks, removal of material – Stockpiling and disposal of material – Gravel screening and chipping 	<ul style="list-style-type: none"> – No contact with NZHPT and/or iwi groups unless work is occurring on a recorded site.

Activity	Nature Of Works	Action
-	<ul style="list-style-type: none">- Vegetation removal including surface clearance of drains and culverts- Pest and plant control,- Painting, water-blasting, scaffolding and temporary false work	<ul style="list-style-type: none">- Accidental Discovery Protocol to be included in all contracts.

6.3 Management and Protection of Known Sites

6.3.1 NZAA Data and deficiencies

The New Zealand Archaeological Association has over a period of time undertaken an upgrade programme whereby the critical data such as location of sites and their condition was physically rechecked on site. Most sites were recorded with GPS co-ordinates. The various Councils in the Waikato contributed funding to this exercise. In the case of Otorohanga the field work has yet to commence but is scheduled for September 2008. Waitomo District will follow after Otorohanga and Matamata- Piako Districts. The data for Waikato District is complete pending a final check. The accuracy of this data is substantially improved over the original but still has limitations. The major drawbacks are:

- Not every site was visited as access agreements could not always be obtained
- Some sites were removed from the list prior to site work commencing as sites may have been recently recorded (no guarantee that GPS co-ordinates will be available) and data was perceived to be reasonably accurate and up to date, damage was suspected and there was unlikely to be visible physical remains, find spots were not checked as the artefact had already been recovered or the site was inaccessible due to extreme topography or densely covered in vegetation.
- No new sites were recorded so the upgrade does not guarantee comprehensive cover

Despite these drawbacks the NZAA upgrade information is the best there is available. The revised data is significantly improved over the original. The upgrade was undertaken by NZAA in the full knowledge that this information was likely to be used for regulatory purposes. There is also the advantage that landowners are or were involved in the process and many went on the field investigation. This approach has been extremely valuable in alerting owners to sites and their legal obligations.

6.3.2 Best Practice for the identification of waahi tapu

Very few Council's have successfully recorded waahi tapu sites in their statutory planning documents. There are a number of reasons for this including:

- A general lack of understanding about the nature of waahi tapu. The spiritual and intangible nature of the sites makes understanding more complex
- The sensitive nature of the material and iwi fears about how this information may be used or exploited in the public arena
- Iwi concerns about the protection of intellectual property rights
- Landowner resistance to the recording of waahi tapu sites and fears around "freezing" of land and concerns about iwi groups having unfettered access to recorded sites and a fear that land may become the subject of Treaty claims

- Political resistance from elected members due to the sensitive and potentially politicised nature of the information.

Many of the fears around the recording of sites, when closely analysed, are largely based on perception. Waahi tapu sites are heritage sites in the same way archaeological and European sites are heritage sites. There is a legislative imperative to protect these sites and the onus is on Council to endeavour to meet the RMA requirement. There are a number of processes that can be put in place to address these concerns but they are reliant on the Council's providing reliable, unbiased and factual information to all the key stakeholders.

6.3.3 Process for Recording waahi tapu sites

Open and honest communication is the key to achieving positive RMA outcomes. It is generally up to Council staff to "sell" the benefits to the key stakeholders. The following process is recommended:

- Unless tangata whenua are prepared to, at a minimum, engage in dialogue there is little chance of waahi tapu sites being successfully recorded. Tangata whenua should be engaged in an open process to discuss the protection of waahi tapu sites. The issues to be traversed should include:
 - (ii) **Quality Information for Successful Protection** - Councils cannot successfully protect waahi tapu from damage and destruction unless Council has some knowledge on the location of sites and these are in some way entrenched in the statutory planning instruments. There has been in the past a reliance on the consent process to protect sites. Reliance on the consent process is flawed as land use consents are often not required for routine farming and forestry activities (extensive damage can occur in these circumstances), the District Plan makes provision for a number of permitted activities for which consent is not required or in the case of controlled or restricted discretionary activities the effect on waahi tapu may not have been identified as a matter over which Council limits control or restricts discretion. Activities under the Building Act, 2004 do not require consents.
 - (iii) **RMA as a Powerful Protection Instrument** - The RMA is a potentially powerful tool for protecting waahi tapu sites if some form of recording occurs in the District Plan. It is advantageous to iwi as they are forewarned of applications where there is potential risk of damage to sites and this aids the consultation process, minimises the risk of consultation overload and allows valuable iwi resources to be targeted at areas of concerns. In the event of Environment Court appeals Council is obliged to apply and justify their own rules. This can have potentially massive savings on legal costs for tangata whenua groups.
 - (iv) **Protection of Intellectual Property** - Robust discussion needs to occur around the matter of intellectual property rights. Where this issue has been successfully resolved in the past generic descriptors have been used i.e. habitation area, birth places etc. No further detail needs to be provided for

public consumption and tangata whenua retains all the site specific information and thus the intellectual property.

- (v) **Conditions for Disclosure of Information** - An agreement, preferably a signed agreement, needs to be reached with the tangata whenua group that if the site is recorded in the plan then the group will provide the necessary information to prove significance. This can occur in a closed hearing under S42 RMA 1991 in order to protect the sensitivity of the site.
- (vi) **Community Engagement** - Also tangata whenua must be prepared in the District Plan review process to meet with individual owners to discuss the significance of sites. This process was extremely valuable in Gisborne where once a tangata whenua representative met with a landowner with Council in attendance many owners understood the significance of sites and voluntarily sought to protect them. These sessions can be non-confrontational and very valuable for both parties. Approximately 400 waahi tapu sites were protected in Gisborne District using this process with only a few appeals all of which were resolved by consent order.
- (vii) **Resourcing** - This process obviously needs to be resourced as it is time intensive. Environment Waikato does have funding available for the gathering of waahi tapu information but this is limited by budget constraints.
- (viii) **Information Usage** - At the outset tangata whenua need to understand how information may be used within the District or Regional Planning instruments. It is fundamental that throughout the process tangata whenua are involved in the development of objectives, policies and rules. A written agreement on usage should be signed.
- (ix) **Information Storage** – Once Council have funded the research component of the work there needs to be assurances that the information will be appropriately stored and maintained. Simple GIS systems operating on ArcGIS are recommended. Use can be made of freeware such as Quantum GIS for basic mapping.
- (x) **Training** – Opus Environmental Training Centre has a specific training module designed to train iwi groups on best practice methods for research, preparation of waahi tapu information, data storage and use. This training ensures best practice standards are met, assists in preserving tangata whenua history and also offers tangata whenua the opportunity to participate in regulatory processes should they elect to protect their waahi tapu and other taonga by this means.

A draft model agreement is contained in 6.3.4 below.

- In order to address misconceptions and fears around waahi tapu sites a public information campaign is recommended if understanding of the spiritual nature of these sites is to be improved. Gisborne District Council is a good example of where a public information campaign was used. As part of their District Plan

review strategy improving the quality of information was considered paramount from the outset. A range of techniques were used including:

- (i) Tangata whenua representatives who were well respected in the community were invited to a closed Council workshop to talk about waahi tapu and their spiritual nature. In the sessions the tangata whenua representatives shared some stories about sites and why they were important. The examples were simple and very clear as to the values. Obviously this process is only feasible if tangata whenua are prepared to enter into a European dominated forum and if Council staff are able to guarantee their cultural safety. Elected officials post the workshop were then better equipped to address any community concerns or issues
- (ii) Clear information was provided to the public through newsletters and other Council information. This was carried out over a fairly long period of time so the concepts became more familiar to the general population
- (iii) The most effective means, however, was letters to owners who had been identified as having waahi tapu on their properties. Letters were rapidly followed up by one on one meetings with the owner/developer/tenant, a council representative and an iwi representative. This one on one approach kept negative perceptions out of the media and allowed frank engagement. In the Gisborne case the majority of landowners were interested to hear about the sites, a number were already aware of their existence and as long as the site was not fundamental to the continued operation of an activity landowners were generally willing to protect the sites. Public meetings were avoided.

6.3.4 Model Agreements

There is no standard or no model agreement available for the collection, use, storage and maintenance of waahi tapu information. Each agreement would need to be tailored to meet the requirements of the tangata whenua group and the Council. The following provides an indication of areas that should be covered in an agreement. The agreement below is broken down into component parts:

Part A – Introduction and Purpose

Part B - Guidelines for the Collection of Information

Part C – Guidelines for the Use of Information

Part D – Guidelines for the Storage of Information

Part E – Maintenance AND On-going Use of Information

PART A INTRODUCTION AND PURPOSE

Agreement betweenandDistrict Council

Description of the parties e.g. (iwi group) is the recognised authority in the (geographic area). (iwi group) has maintained unbroken occupation of the area for ***** years.

Council is a regulatory body.....etc etc

Purpose of the Agreement

The purpose of this agreement is to enter into an arrangement between the parties for the express purpose of identifying, managing and protecting waahi tapu in(geographic area). The component parts of this agreement are protocols on the collection, use, storage and maintenance of information.

Council will rely on (iwi group) to define waahi tapu and will not prescribe the nature of those sites¹ though it is generally understood that these sites are of spiritual or cultural significance and may or may not be accompanied by physical remains.

PART B COLLECTION OF INFORMATION

- 1.1 (iwi group) will undertake research into the location and nature of waahi tapu sites and other significant sites in (geographic area).
- 1.2 In collecting and compiling the information, documents that are to be reviewed include relevant historic maps, Maori Land Court records, other printed material such as books, articles, journals, diaries, newspapers and historic photographs. The research is not limited to these sources. Oral tradition including interviews and waiata may also be included.
- 1.3 The minimum information to be provided for each site is location (northings/eastings or the site indicated on a hard or electronic copy of a topographic, cadastral or historic map or GIS co-ordinates), legal description (Council is able to provide advice on this aspect), generic site type and history.
- 1.4 The generic descriptors (eg place of habitation, birth place place) indicated in 1.3 are to be negotiated and agreed by both parties. Council will respect the intellectual rights associated with this information.
- 1.5 Ideally this information is to be provided in the form of a GIS layer. If there is no GIS expertise available within the iwi Council may facilitate funding arrangements (see 1.6 below) or may provide Council staff resources to assist in this area.
- 1.6 Council will assist in providing training or locating sources of funding for training or supporting funding applications for training to ensure (iwi

¹ Waahi tapu may vary from iwi group to iwi group. Waahi tapu will not have the same meaning or be defined in the same manner by every group

group) have an appropriate level of skill to undertake the work required by this agreement.

- 1.7 The parties agree to an independent confidential audit of the information to be provided. The auditor will have appropriate heritage experience to review the information and will need to be satisfied that the quality of the information will withstand legal scrutiny. Both parties will agree jointly on the appointment of the auditor. The auditor will not disclose the content of the inventory to any party and is bound to protect iwi intellectual property rights. The Auditor however needs to be satisfied with the quality and accuracy of the information. The auditor may also provide the iwi group with professional technical advice to improve the quality of the information or data provided. The Auditor will report back to both parties the findings of the audit. Any deficiencies identified by the auditor are to be rectified by(iwi group).

PART C USE OF INFORMATION

- 1.8 All intellectual property and information gathered will retained by (iwi group). This agreement does not restrict or limit the use of this information by the iwi group.
- 1.9 Council will agree with.....(iwi group) where and how this information is to be used. Any use of the information for either regulatory or non-regulatory purposes will be agreed by both parties in advance.²
- 1.10 Council and (iwi group) will agree appropriate tools and mapping techniques to represent this material in Council statutory or non-statutory documentation.
- 1.11 If it is agreed the information is to be used for regulatory purposes Council may include a list of sites in the District Plan along with appropriate locations marked on the planning maps with a view to protecting these sites as far as legally possible.
- 1.12 If it is agreed the information is to be used in the District Plan Council will also consult with(iwi group) with respect to the formulation of objectives, policies and rules. It is however clearly understood by the parties that the District Plan is open to consultation and challenge though the hearings and any consequential Environment Court action. Council cannot guarantee that any objectives, policies and rules that are agreed will remain unchanged through the process. Council at all times throughout the District Plan preparation process will clearly advise the (iwi group) of the legal ramifications of the legislation particularly of any risks identified by Council as to the robustness of the objectives, policies and methods.

² Note Council can only offer protection of sites if agreement is reached on the information being used for regulatory purposes

- 1.13 If this information is agreed to be used for regulatory purposes Council may also use it for assisting in the processing of resource consents, PIMS, LIMS and Building Act applications. Council will use this information for the express purpose of advising applicants for consents the there are sensitive sites that may require resource consents to be lodged and/or comprehensive consultation to be undertaken with (iwi group).
- 1.14 Agreement may also be reached on the use of this information for informing other Council processes such as the Long Term Council Community Plan (LTCCP).
- 1.15 Council may also agree with iwi how information contained in Iwi Management Plans may be used in regulatory and non-regulatory processes.

PART D STORAGE OF INFORMATION

- 1.16 (iwi group) will ensure that the information is stored in a safe place with an appropriate backup system kept in another location. Council will be advised of the person/s who retains the information and the location of the backup data.

PART E MAINTENANCE AND ONGOING USE OF INFORMATION

- 1.17 (iwi group) will nominate a representative or contact person as the liaison person for Council. Council agree to do the same. If there are changes in representatives or staff the relevant party will notify the other. The two parties will make themselves available to each other on an as and when required basis. Council acknowledge that iwi are specialist advisors in this area and will be accorded the same respect as other professional advisors.
- 1.18 Where..... (iwi group) agree to divulge information specific on individual sites as part of the regulatory process (District plan or resource or building consent processes) the parties agree to protect the integrity of the information and acknowledge this will involve an ongoing relationship that requires commitment.
- 1.19 If it is confirmed sites are to be included in the District Plan, iwi representatives agree to meet with selected individual landowners during the District Plan preparation process or during the consent process to explain the significance of sites. Council staff or nominated contractors will accompany the iwi representative to these meetings.
- 1.20 Where a site is likely to be affected Council will in the first instance refer applicants for resource consents to the relevant iwi group to obtain their consent as an affected party. As part of a resource consent process, Council may require more detailed information as to the site and the potential effects on a site as the result of a proposed activity and may

therefore request the applicant to provide further information or commission a cultural impact assessment at the cost of the applicant or consult itself.

- 1.21 The Council and (iwi group) agree to meet(time period) to review any issues that may arise from this agreement. The purpose of these meetings is to resolve issues to ensure the on-going health and longevity of the relationship.
- 1.22 It is acknowledged that the identification and management of significant sites is a dynamic and on-going process. The information contained within the database needs to be monitored. It is accepted that new sites will be added or sites removed from time to time as information becomes available. Council and(iwi group) agree to advise each other well in advance of sites intending to be added or removed. If sites are to be added or removed and the sites are contained within the District Plan or other legally binding Council document there are legal processes to follow. Both groups acknowledge and understand there will be time lags between the information becoming available and it being accorded any legal weight.
- 1.23 It is acknowledged that there are costs associated with the collection, use, storage and maintenance of data. Council may enter into a lease agreement to fund the above processes. Council may negotiate an annual lease fee for these. Alternative forms of funding may be considered including supporting applications for funding from other parties, sharing of advice or resources or any other form of in-kind agreement that may be reached.

7 Recommended Heritage Management Framework

We recommend the adoption of an holistic approach to historic heritage management. The framework below is derived from the analysis in the earlier sections of this report. It would require a considerable input of resources to achieve the entire framework in the short term. A more feasible approach is to phase implementation over a period of time and commit resources accordingly.

The key principles to be derived are the following:

- The Council is responsible for managing its obligations under the RMA 1991. Historic Heritage is a matter of national importance and needs to be considered accordingly in the District Plan review. The definition of historic heritage under the RMA is holistic and requires Councils to deal with all aspects of historic heritage (buildings, archaeology, waahi tapu, cultural landscapes, areas and sites). All heritage is accorded an equal weighting. **Principle – all aspects of historic heritage need to be considered in an holistic framework if the requirements of the Act are to be fully met.**
- The Historic Places Act 1993 accords legal protection to archaeological sites but does not afford any other heritage item legal protection. Legal protection for buildings, waahi tapu and other non-archaeological historic heritage can only be legally protected under

the RMA 1991. Prior to the inclusion of historic heritage into the RMA 1991 there was a debate as to whether archaeology should be considered as part of S7 considerations. **Principle - Archaeology is a fundamental part of historic heritage and needs to be accorded protection under the RMA 1991. Council serves a dual function of protecting archaeology alongside Historic Places Trust. The RMA, 1991 is the predominant instrument for protecting historic heritage in New Zealand.**

- Other legislation such as the Building Act 2004 and the Local Government Act 2002 sit alongside the RMA 1991 and HPA, 1993. **Principle - In reviewing the statutory instruments an integrated approach should be adopted to ensure the District Plan sits well with community outcomes in the LTCCP and policy on earthquake prone buildings is not inconsistent with the District Plan policy.**
- The relevant case law should be considered in setting up the heritage framework. There are a number of principles to be considered but primarily the Court will always take a balanced S5 approach and proven historic heritage items and places may be lost once all factors are considered. **Principles - The Court will not freeze large tracts of land as this is considered unsustainable. This principle will severely limit the size of buffer zones or sensitivity areas that are applied in the District Plan. High quality evidence (written and oral) is essential if historic heritage items are to withstand scrutiny in the Environment Court.**
- European buildings are generally well protected under the various District Plans but inventories are deficient in the area of agricultural, industrial and infrastructural heritage as well as protecting areas, landscapes and precincts. The archaeological information in the first generation plans is deficient and unreliable and the Waikato second generation plan fails to take archaeology adequately into account. European archaeology and archaeological landscapes are neglected. Waahi tapu are grossly neglected in all the statutory instruments. **Principle - waahi tapu sites are not protected in any of the plans and this fails to meet to Council's RMA 1991 obligations. This is an area of major concern and needs to be urgently addressed. Once the NZAA upgrade material is available this archaeological information should be included in District Plans and at a minimum included as an advice schedule in the rear of the document. Statutory protection is preferred. The deficiencies in the European schedules should be addressed as funding becomes available. In the review of the statutory instruments cultural landscapes should be considered as part of the landscape assessments.**
- A range of regulatory and non-regulatory instruments should be applied to protect historic heritage. Silent files should not be used as a tool as they have proven to be unreliable and difficult to practically administer. Large scale sensitivity zones and buffer areas have proven to be unacceptable to the Court as a blanket approach is considered unsustainable. **Principles - A range of tools should be applied appropriate to the community need. A recommended range of tools is shown in the flowchart below with emphasis on the establishment of a waahi tapu schedule as a priority closely followed by the inclusion of NZAA data and a later introduction of heritage alert mapping. A regulatory approach is most effective when supplemented by a range of non-regulatory instruments.**

- The development of a comprehensive heritage framework is both time and cost intensive. A phased approach should be adopted. The flowchart below sets out the desired outcomes along with interim introduction measures. **Principle – implement the framework set out below.**

HERITAGE MANAGEMENT FRAMEWORK

HERITAGE RESOURCE

Final Outcome – Implement techniques to manage risk to unknown sites - Predictive Risk Modelling
Heritage Alert Layer
INTERIM MEASURES

- Accidental Discovery Protocols
- Advisory and consent footnotes
- Consent checklists
- Risk/activity-based rules in District Plan
- Risk Management Tables

Final Outcome - Upgrade European heritage Inventories to include more areas / precincts / landscapes / industrial / agricultural and infra-structural items. Implement appropriate non-regulatory incentives
INTERIM MEASURES

- Maintain existing inventories
- Ensure new HIPT registrations recorded PIMS/LIMS
- Budget for long term funding
- Consider landscape elements in D.P. review

Final Outcome - Upgrade Archaeological Inventories to include NZAA upgrade information; include archaeological areas and landscapes. Implement appropriate non-regulatory incentives
INTERIM MEASURES

- Use NZAA data (preferably update material) to check all consents against
- Best information possible on PIMS/LIMS
- Include ADP conditions on consents
- Use advisory and consent footnotes on consents
- Risk/activity-based rules in District Plan /Risk Management Tables
- Consider archaeological landscape elements in D.P. review
- Review existing European inventories & use construction dates to derive archaeological information

Final Outcome - Include waahi tapu inventories sites, areas. Implement appropriate non-regulatory incentives / greater use of Iwi Management Plans
INTERIM MEASURES

- Consult as extensively as practicable
- Use consent checklist
- Risk/activity-based rules in District Plan
- Risk Management Tables
- Initiate waahi tapu training
- Establish waahi tapu protocols to facilitate inventory preparation
- Iwi Management Plans

