

Section 32 Evaluation Report: Historic Heritage Chapter

1. Strategic Context

Section 32(1)(a) of the Resource Management Act 1991 requires that a Section 32 evaluation report must examine the extent to which the proposed objectives are the most appropriate way to achieve the purpose of the Act.

The purpose of the Act demands an integrated planning approach and direction:

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 well-being 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-supporting capacity of air, water, soil, and ecosystems; and

(c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.

The remaining provisions in Part 2 of the Act, particularly s.6, provide a framework upon which objectives to achieve the purpose of the Act and provisions (in this case, policies and rules) to achieve the objectives can be built. Section 6 (abbreviated below) is particularly relevant to this chapter:

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) the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:

(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:

2. Regional Planning Documents

The Regional Policy Statement is currently under Review itself, and may be further advanced in that process by the time the District Plan Review is Notified. Amendments to this evaluation may be required to accommodate that change. The District Plan must *give effect* to the Operative Regional Policy Statement and must *have regard* to the Proposed Regional Policy Statement

The Operative Regional Policy Statement 1998, contains a number of references to historic heritage in its Objectives and Policies:

9.4.1 To promote the sustainable management of Otago's built environment in order to:

- (a) Meet the present and reasonably foreseeable needs of Otago's people and communities; and*
- (b) Provide for amenity values, and*
- (c) Conserve and enhance environmental and landscape quality; and*
- (d) Recognise and protect heritage values.*

9.5.1 To recognise and provide for the relationship Kai Tahu have with the built environment of Otago through:

- (a) Considering activities involving papatipu whenua that contribute to the community and cultural development of Kai Tahu; and*
- (b) Recognising and providing for the protection of sites and resources of cultural importance from the adverse effects of the built environment.*

9.5.4 To minimise the adverse effects of urban development and settlement, including structures, on Otago's environment through avoiding, remedying or mitigating:

- (a) Discharges of contaminants to Otago's air, water or land; and*
- (b) The creation of noise, vibration and dust; and*
- (c) Visual intrusion and a reduction in landscape qualities; and*
- (d) Significant irreversible effects on:
 - (i) Otago community values; or*
 - (ii) Kai Tahu cultural and spiritual values; or*
 - (iii) The natural character of water bodies and the coastal environment;**
- or*
- (iv) Habitats of indigenous fauna; or*
- (v) Heritage values; or*
- (vi) Amenity values; or*
- (vii) Intrinsic values of ecosystems;*

9.5.6 To recognise and protect Otago's regionally significant heritage sites through:

- (a) Identifying Otago's regionally significant heritage sites in consultation with Otago's communities; and*
- (b) Developing means to ensure those sites are protected from inappropriate subdivision, use and development.*

The Proposed RPS (Notified 23 May 2015) also contains relevant references as follows:

1.1 The principles of Te Tiriti o Waitangi are taken into account in resources management decisions.

1.1.1 Promoting awareness of treaty obligations.

1.1.2 Taking the principles of Te Tiriti o Waitangi into account.

1.2 Kai Tahu values, rights and interests and customary resources are sustained.

1.2.1 Managing the natural environment to support Kai Tahu wellbeing.

1.2.2 Recognising important sites of cultural significance to kai Tahu.

1.2.3 Protecting important sites and values of cultural significance to Kai Tahu.

1.2.4 Enabling Kai tahu relationships with wahi tupuna and associated sites.

4.2 Historic heritage resources are recognised and contribute to the region's character and sense of identity.

4.2.1 Recognising heritage themes.

4.2.2 Recognising historic heritage.

4.2.3 Managing historic heritage values.

The proposed Plan Change gives effect to these and other parts of the higher document, by synthesising the objectives and policies through the provisions.

3. Resource Management Issues

The resource management issues set out in this section have been identified from the following sources:

- Monitoring and review of Operative District Plan
- Community consultation
- Heritage Strategy
- Legislative changes

The Issues are:

- Historic heritage needs to be recognised, and correctly identified before it can be protected.
- Buildings in particular, need economic uses, which may require adaptation. There is an on-going need to achieve a balance between protection and development, in order to achieve sustainability.
- Heritage precincts need to be managed to protect heritage features without over regulation.
- Maintenance of historic heritage features must be encouraged and enabled. Demolition by neglect should be avoided.
- Private property rights are a relevant consideration in the wider approach to historic heritage. Providing provisions that are overly restrictive is counter-productive to their sustainable management.
- The need for longevity of finite resources. Heritage fabric is often fragile and irreplaceable. The value of heritage features in situ is far higher than when relocated, and the setting of these features provides context.
- Professional and technical input. Informed assessments of effects are required for development affecting historic heritage in the same way as any other “specialism” within the planning sphere. Government Agencies (HNZ, DoC) and community based groups are excellent sources of information and should be involved at the earliest planning stages. HNZ has a Regulatory role with regards to Archaeology, and Tangata Whenua only, can provide informed responses on Sites of Significance to Maori.
- Currency of the Inventory of Protected Features. This list of features is not fixed, in that it can be increased or decreased. It can also accommodate changes to the level of significance of items.
- Trees. New legislation relating to blanket tree protection as well as issues in other chapters of the Plan have led to the identification of a dedicated chapter for vegetation.

4. Purpose and Options

This purpose of this chapter is to promote the sustainable management of the District’s historic heritage features. This is drawn directly from the purpose of the RMA, as it applies to this particularly matter of national importance, being historic heritage as defined in Part 1¹. Furthermore, this reflects the intent of the proposed Strategic Directions Chapter as follows:

¹ Part 1, Clause 2 (1) historic heritage

Objective 2 To protect the District's cultural heritage values and ensure development is sympathetic to them.

Policy 2.1 Identify heritage items and ensure they are protected from inappropriate development

The proposed Objectives meet the purpose of the Act by mirroring elements of the purpose of the Act and by enabling the recognition and protection of a matter of national importance. With regard to the Objectives being the most appropriate approach, the following alternatives were considered:

Option 1 is to retain the current provisions (Objectives, Policies and Rules) as they stand. This will allow for the familiarity of users to remain but would not address the resource management issues that were identified through monitoring.

Notable issues are that the assessment of effects on heritage landscapes are not being triggered as the links to Appendix 10 are not clear. Additionally the use of the precinct provisions is poor. For example, one set of rules covering all development within a precinct area does not allow for differentiation of actual heritage fabric, or against contributory buildings only. This results in unnecessary consents being required.

Option 2 would result in a "tidying" up of the current provisions, which would allow some increased ease of use, but would not provide the simplicity which is sought in RMA Amendments. Although some of the provisions are shown to be effective, there are alternatives which could be considered.

This would address minor issues within the provisions but does not significantly improve the clarity and continuity of the chapter. As such it fails to simplify and streamline. This version was essentially that presented to Council in 2013 and retained a number of areas that could now be improved, such as focussing the objectives and policies to inform the associated rules, including the encouragement of on-going maintenance. It also introduced a confusing array of tree protection measures.

Option 3 requires the provisions to be examined in light of the current needs of the District, with updated legislation and a need to simplify the Plan as part of a wider staged Review. The resultant provisions would not be any less effective than Option 2 but readability and relevancy would be greatly improved.

This option allows clearer links between objectives, policies and rules, and alignment with the Strategic Directions chapter. It also removes the poor grouping of different types of historic heritage features that were previously categorised together. Buildings, structures and features can still be categorised, but rules applying to archaeological sites, precincts, sites of significance to Maori and landscapes are now more accurately focussed.

Option 3 is the preference and will allow the removal of trees from the chapter, a re-examination of the extents of heritage precincts and landscapes, and use of a more permissive set of provisions, without loss of protection where it is needed.

	Option 1: Status quo/ No change	Option 2: Retain and Improve	Option 3: Comprehensive Review
Costs	<p>Does not address all the identified issues nor address the lack of clarity and ambiguity in some of the rules especially for heritage precincts.</p> <p>Contains unnecessary information and is not structured in a simple and easy to follow manner.</p>	<p>Has financial costs associated with going through the District Plan Review process (but this is required by legislation). Opens up some parts of the district plan which residents feel are settled.</p> <p>Contains unnecessary information and is not structured in a simple and easy to follow manner.</p>	<p>Slightly contradicts the Monitoring Reports that show that the current provisions are partially effective.</p> <p>However, review of the reports suggests that the monitoring was in some areas inadequate. The current investigations are considered to be more comprehensive.</p>
Benefits	<p>Retains the established approach which parties are familiar with. Low cost for Council</p>	<p>Retains established approach but improves where necessary to improve clarity and assist implementation</p>	<p>Allows a comprehensive “fit for purpose” review and provides opportunity to address all aspects.</p> <p>Provides opportunities to examine the content of the provisions in light of changes to legislation relating to heritage and earthquake strengthening.</p> <p>Adopts a far more streamlined structure that is easier to interpret.</p>
Ranking	3	2	1

5. Scale and Significance Evaluation

The level of detailed analysis undertaken for the evaluation of the proposed objectives and provisions has been determined by an assessment of the scale and significance of the implementation of the proposed provisions in the Historic Heritage chapter. In making this assessment, regard has been had to the following, namely whether the objectives and provisions:

- Result in a significant variance from the existing baseline.
- Have effects on matters of national importance.
- Adversely affect those with specific interests, e.g, Tangata Whenua.
- Involve effects that have been considered implicitly or explicitly by higher order documents.
- Impose increased costs or restrictions on individuals, communities or businesses.

6. Evaluation of proposed Objectives S32 (1) (a)

The purpose of the Act is to promote the sustainable management of natural and physical resources. This is very relevant to historic heritage which is a matter overall, of national importance. It is accepted that this applies to heritage in general and not each individual item, and some are highly important only to the local community.

Protecting historic heritage features means keeping them in a condition where they can be enjoyed by current and future generations. There must also be an acknowledgement that the fabric of historic heritage buildings and landscapes is subject to change and adaptation. To sustainably manage buildings they need to be kept in use. To allow them to meet a current need it is sometimes accepted, but also encouraged, to utilise an adaptive reuse. Provision of services to buildings including earthquake strengthening will provide for their longevity.

Buildings and features have higher value if they are in situ. However, the wider needs of communities and occasionally individuals are also recognised.

Heritage fabric is a finite resource and the full continuum of protection must be available for those exceptionally rare or outstanding items. It is also acknowledged that once finite resources are lost, the remaining examples become rarer and rarer, and are rightly elevated in their significance.

Historic heritage must be recognised first before it can be protected. It must also be acknowledged that historic heritage includes a diverse range covering entire landscapes through to small structures, and may have different importance and values to iwi, public and professional conservationists.

<i>Objective</i>	<i>Appropriateness</i>
<p>13.5.1 To recognise and protect historic heritage features in the District from the adverse effects of land use, subdivision and development.</p>	<p>This Objective is required to align with the need to sustainably manage historic heritage under the Act. In order to achieve protection, historic heritage needs to be identified in such detail that accurate decisions can be made relating to its protection. This protection assists in avoidance of adverse effects, or allows for the appropriate level of remediation or mitigation.</p> <p>This objective accurately reflects Sec 5 (2) (a) (c), 6 (e) (f), and Regional objectives 9.5.4, 9.5.6.</p>
<p>13.5.2 To provide for the sustainable use of historic heritage features.</p>	<p>Historic heritage is a matter of national importance in a generic sense. Individual items and groups of features contribute to the overall stock of heritage fabric that can be retained for future generations.</p> <p>The sustainability of the overall historic heritage of New Zealand must allow the on-going use of these features, as well as their protection.</p> <p>This objective directly reflects Sec 5 (2) (a), and Regional objective 9.4.1</p>
<p>13.5.3 To recognise the diversity of historic heritage features, landscapes and values associated with them.</p>	<p>The diverse range of historic heritage must be acknowledged in order to understand its value. Values that require protection for heritage or cultural landscapes may differ from the requirements of a physical structure and to a non-tangible value attached to a site of significance to Maori.</p> <p>Establishing and maintaining an inventory of protected features containing documented values informs good decision making and therefore assist in the sustainable management of the resource.</p> <p>This objective directly reflects Sec 6 (f), and Regional objective 9.5.1.</p>
<p>13.5.4 To enhance historic heritage features where possible.</p>	<p>The fabric of historic heritage and the setting of individual items can often be improved (or inappropriate development reversed) to raise the overall enjoyment of, and authenticity of, the feature.</p> <p>Opportunities for incentivising this approach align with achieving longevity for the historic heritage resource.</p> <p>This objective directly reflects Sec 5 (2) (a).</p>

7. Evaluation of the proposed provisions S32 (1) (b)

(See also Table of options in Section 1 above.)

<i>Provisions</i>	<i>Costs</i>	<i>Benefits</i>
Objective 13.5.1	Significant resources will be required over the period of the Plan to provide adequate research and documentation to identify and describe the historic heritage resource within the District.	The historic heritage of the District will be accurately recorded. This information will guide sound planning decisions and form a database of educational material and a record of development affecting the resource.
Policies 13.5.1.1, 13.5.1.2, 13.3.1.3	Significant resources will be required over the period of the Plan to defend the protection of historic heritage.	Applications affecting historic heritage will be reduced in number by removing those applications which currently are required for non-heritage fabric and non-contributory buildings and structures.
Rules		Costs of applications will be reduced as more information becomes available, to accurately inform assessments of effects.
All		Mitigation will be proportionate to the level of adverse effects, and will be more accurately defined.
	<i>Efficiency</i>	<i>Effectiveness</i>
	<i>Environmental</i> Immediate environmental benefits will be evident by reducing adverse effects on historic heritage. Long-term benefits through the on-going protection of historic heritage for future generations will also be observed.	The correct identification of historic heritage resources is the most effective way of establishing the level of protection needed. Those that warrant protection, when considered together, allow the identification of the necessary level or regulation to protect them.
	<i>Economic</i> There may be costs incurred by	Identifying the type of effects from development, and balancing these anticipated effects with proportionate controls is the most efficient way to achieve sustainable management of

	<p>extending the geographical areas that are affected by the provisions but district wide, these would be offset by a reduction in the number of consents.</p> <p><i>Social</i></p> <p>Long term social benefits will come from the protection and therefore retention of familiar settings and sites. Particularly important in any recovery from natural hazards or other significant catastrophic events.</p> <p><i>Cultural</i></p> <p>Mid to long term benefits from the increased awareness of, and specific knowledge relating to both individual features and the district and national layer of historic heritage resources.</p>	<p>the resource.</p> <p>Correctly identifying the level of regulation needed will enable on-going use of historic heritage features (especially buildings). Consequently, these resources can be retained as economically viable which will achieve the overall aim of protection.</p>
<i>Provisions</i>	<i>Costs</i>	<i>Benefits</i>
<p>Objective</p> <p>13.5.2</p> <p>Policies</p> <p>13.5.2.1, 13.5.2.2</p> <p>Rules</p>	<p>There may be some minor misinterpretation of the extent of maintenance which would result in alterations being unconsented.</p> <p>Some alterations and adaptations may appear to be an adverse effect on heritage.</p>	<p>Owners will be encouraged to carry out minor maintenance on properties which will aid their long term retention.</p> <p>Identifying alternative uses for buildings will ensure that they continue to form a viable and attractive element of the built stock of the District.</p> <p>Economic activity may be improved by the added value of operating from a heritage building.</p>
13.6.3 to 13.6.17	Efficiency	Effectiveness
	<p><i>Environmental</i></p> <p>There will be immediate beneficial effects as the provisions encourage the use and re-use of buildings and features which contribute to on-going occupation. Consequently this supports the</p>	<p>Sustainable management will provide for the longevity of the resources. Within the district there is a very high reliance on tourism of which historic heritage forms a significant part. Expansion of tourism contributes directly to employment and</p>

	<p>anticipated outcomes and avoids demolition by neglect.</p> <p>In the long to medium term, the certainty for owners that consents are not required for every minor task will be beneficial. Retaining the clarification that repairs and maintenance is encouraged will also assist this.</p> <p><i>Economic</i></p> <p>These provisions recognise that heritage features are seen as assets in most cases and especially buildings. Barriers to adaptive re-use and the removal of unnecessary consents is to the economic benefit of owners. In turn, a benefit to the wider district is anticipated.</p> <p><i>Social</i></p> <p>Allows the building (and other features) to remain in use. Most important factor in public perception of heritage.</p> <p><i>Cultural</i></p> <p>Appropriate to all types of heritage features and allows a diverse range to be managed.</p>	<p>economic growth.</p> <p>Allowing for the sustainable and adaptive reuse may be preferable to the complete and absolute protection of features that contain heritage value. This approach prevents, or limits, on-going use.</p>
<i>Provisions</i>	<i>Costs</i>	<i>Benefits</i>
<p>Objective</p> <p>13.5.3</p> <p>Policies</p> <p>13.5.3.1, 13.5.3.2, 13.5.3.3, 13.5.3.4</p> <p>Rules</p>	<p>Extents of heritage precincts may be extended and include additional properties. This may affect the perception of financial value.</p> <p>Identification of sites may require third party approvals to consents which may be seen as onerous.</p> <p>Owners / applicants may not fully understand or recognise the values associated with a wide range of features.</p>	<p>Correctly identifying the wide range of values associated with different types of historic heritage will allow better informed decision making.</p> <p>Duplication of consents may be avoided, resulting in a reduced number of consents and application costs.</p>

<p>13.6.4 to 13.6.22</p>	<p><i>Efficiency</i></p> <p><i>Environmental</i></p> <p>Immediate and long term beneficial effects from protecting the larger and more diverse features from cumulative development will be evident.</p> <p><i>Economic</i></p> <p>Identifying the full range of historic heritage features acknowledges diversity and creates tourism interest.</p> <p>Avoiding duplication of consents is beneficial to applicants.</p> <p><i>Social</i></p> <p>Acknowledging the wide range of historic heritage complements the sense of place or “connection” that people feel with the resource. By inclusion of a diverse range rather than the inclusion of a limited portion this connection is increased.</p> <p><i>Cultural</i></p> <p>Recognition of diversity in terms of values associated with historic or cultural heritage allows the district to be fully engaged.</p>	<p><i>Effectiveness</i></p> <p>Identification of a wide range of features contributes to historic heritage assets with the district. Provisions that encourage the identification of features will broaden the employment opportunities through creation of more sites available to visit and study.</p>
<p><i>Provisions</i></p>	<p><i>Costs</i></p>	<p><i>Benefits</i></p>
<p>Objective 13.5.4</p>	<p>Restrictions may be placed over private property rights for the long term protection of historic heritage.</p> <p>Incentives for development affecting heritage may be seen as receiving preferential treatment.</p> <p>Some building fabric may be</p>	<p>Better planning outcomes can be achieved by innovative mitigation measures.</p> <p>Economic use of historic heritage buildings and sites can be demonstrated to a wide audience and seen as an encouragement to their longevity.</p>

Policies	permanently altered as a result of strengthening, or other safety measures.	
13.5.4.1, 13.5.4.2, 13.5.4.3	<i>Efficiency</i>	<i>Effectiveness</i>
Rules All	<p><i>Environmental</i></p> <p>Better planning outcomes will benefit the resource and inform subsequent development opportunities. This will have both immediate and long term effects.</p> <p><i>Economic</i></p> <p>Allowing enhancement of features can assist in the commercial viability and attractiveness of a site. Clear protection measures such as covenants provide certainty for owners and developers, which can be more permanent than RMA measures. Certainty reduces risk and encourages investment in these features.</p> <p><i>Social</i></p> <p>The benefits of enhanced heritage features can be enjoyed by the wider public.</p> <p><i>Cultural</i></p> <p>Increasing opportunities for the interpretation of cultural heritage sites can elevate the level of understanding that is associated with them.</p>	<p>Acknowledging that there may be opportunities to enhance historic heritage features will elevate the values associated with individual features and the resource throughout the district as a whole. Enhancement may be through restoration, renovation, interpretation or the displacement of effects through transferrable development.</p> <p>Enabling adaptation directly generates employment in construction, tourism and subsequently, service industries.</p>
<i>Reasonably practicable options</i>		
Option 1 – Status quo		
Retention of the existing (Operative) provisions would not provide for the on-going sustainable management of the resource. There are identified issues with the regulation of trees, precincts, heritage landscapes and lack of clarity within the rules.		

Option 2 – Retain and improve

Retention of the majority of the existing provisions and making improvements to address those identified resource management issues, was considered and was the preferred option in an earlier assessment (evaluation) of this chapter. However, this rolling over of the existing format and detail would continue to retain several areas that could be improved. Providing new objectives, policies and rules which are clear and more directly related to each other and the RMA, will provide a superior planning outcome.

8. Efficiency and effectiveness of the provisions.

The above provisions are drafted to specifically address the resource management issues identified with the current provisions, and to enhance those provisions that already function well. A number of areas of the existing chapter have been removed to aid the readability of the Plan by keeping the provisions at a minimum, whilst still retaining adequate protection for the resource.

By simplifying the objectives, policies and rules (the provisions), the subject matter becomes easier to understand for users of the Plan both as applicant and processing planner. Removal of technical or confusing wording, also encourages correct use. With easier understanding, the provisions create a more efficient consent process by reducing the number of consents required and by expediting the processing of those consents.

9. The risk of not acting.

It is considered that there is sufficient information available on which to base the above evaluation. Monitoring reports, heritage strategy, input from Government agencies and officer expertise are combined to produce this.

Continuing to add to the supporting information for the Inventory of Protected Features, will also enable more accurate environmental monitoring, in the next Plan review. This will further reduce the risk of not acting by ensuring adequate information is available.