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## **SECTION 32 REPORT – PROPOSED PLAN CHANGE 53**

### **PROPOSED ADDITIONS & DELETIONS TO LISTED HERITAGE BUILDINGS, OBJECTS, & AREAS**

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#### **1. Introduction**

Before a proposed District Plan change is publicly notified the Council is required under section 32 of the Resource Management Act (RMA, or the Act) to carry out an evaluation of the proposed change and to prepare a report. As outlined in section 32 of the Act the evaluation must examine:

- (a) *the extent to which each objective is the most appropriate way to achieve the purpose of the Act; and*
- (b) *whether, having regard to their efficiency and effectiveness, the policies, rules, or other methods are the most appropriate for achieving the objectives.*

*An evaluation must also take into account:*

- (a) *the benefits and costs of policies, rules, or other methods; and*
- (b) *the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules or other methods.*

*Benefits and costs are defined as including benefits and costs of any kind, whether monetary or non-monetary.*

*A report must be prepared summarising the evaluation and giving reasons for the evaluation. The report must be available for public inspection at the time the proposed change is publicly notified.*

The Plan Change seeks to implement the Built Heritage Policy adopted by Council in 2005 and to reflect the Resource Management Amendment Act 2003, which elevated the status of heritage protection to section 6 of the RMA.

A number of mechanisms are required to protect the city's built heritage. These include the provisions of the District Plan, the Council's Built Heritage Policy and the Council's financial incentives for the protection of heritage buildings.

Two main options were canvassed in the preparation of this proposed Plan Change and this report has been prepared to address the requirements set out in section 32 of the RMA.

#### **2. Context**

The purpose of the RMA is to promote the sustainable management of natural and physical resources. Sustainable management includes managing the use and development of natural and physical resources to enable people to provide for *their social, economic, and cultural wellbeing and for their health and safety*. The Act also contains an explicit function for Territorial Authorities to maintain and enhance amenity values and the quality of the environment. Local authorities are also required under section 6, *Matters of National Importance*, to recognise and provide for:

*The protection of historic heritage from inappropriate subdivision, use and development.*

In the definition section of the Act *historic heritage*:

- (a) *means those natural and physical resources that contribute to an understanding and appreciation of New Zealand's history and cultures, derived from any of the following qualities:*
  - (i) *archaeological;*
  - (ii) *architectural;*

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

### **3. Policy Analysis & Consultation**

The proposed buildings and objects for listing have been brought to the Council's attention and identified through various reviews and studies. The majority of the commercial buildings have been identified through the Non-Residential Inventory Review in 2001. Many of the residential buildings were identified in the 1999 Residential Inventory Review. The Oriental Parade buildings were identified in the Oriental Parade Heritage Buildings Survey 2004. Other buildings have been identified as part of the Central Area Review (Plan Change 48), Parks Management Review of Properties and individual nominations from community groups and conservations specialists.

This Plan Change reflects the revised status of the Resource Management Amendment Act 2003, which elevated the status of heritage protection to section 6 of the Act. The Plan Change also reflects the Built Heritage Strategy which sets out the intentions of the Council for the city's built heritage over the next 10 years. Key points in the Policy are the need to strengthen the Heritage Rules and the need to give better protection to groups of buildings in the inner city and suburban areas together with "*Creating more heritage places in the District Plan, in particular, heritage places experiencing development pressure, places which reflect our ethnic and cultural diversity, and post World War II buildings*". Proposed District Plan Change 53 reflects this policy and proposes the addition of some 50 new buildings and objects of heritage value to be listed on the District Plan.

#### ***Built Heritage Policy – Adopted by Council 28 June 2005***

The Council's built heritage policy includes a number of objectives that, together, aim to achieve the vision that:

*Wellington is a creative and memorable city that celebrates its past through the recognition, protection, conservation and use of its built heritage for the benefit of the community and visitors, now and for future generations.*

One objective of the Policy is to continue to recognise built heritage places as essential elements of a vibrant and evolving city. This is relevant to this Plan Change because one action identified in the Policy is to;

*Continue to identify built heritage places with significant heritage value to ensure their protection, promotion, conservation and appropriate use for present and future generations*

#### ***Plan Change 43 – Heritage Provisions – Notified 4 May 2006***

Proposed District Plan Change 43 introduced revised heritage provisions that strengthen the regulatory controls for the protection of the City's historic heritage.

Specifically objective 20.2.1 of proposed Plan Change 43 states that the Council seeks:

*'to recognize and protect the city's built historic heritage'*

This objective is to be achieved in part through identifying, recording and listing the city's significant historic heritage in the District Plan.

The key components of the Plan Change 43 are:

1. Redrafted objectives and policies to emphasise the protection of historic heritage in accordance with section 6(f) of the Resource Management Act 1991 and the direction of the Council's Built Heritage Policy.
2. Removal of Controlled Activity provisions, and additions and alterations to listed heritage buildings made a Discretionary Activity (Restricted or Unrestricted, depending on the extent of the modifications to the building).
3. Demolition or relocation of listed buildings or objects made a Discretionary Activity (Unrestricted).
4. New rules controlling the development of non-listed buildings and/or subdivision on the site of a listed heritage building or object to protect the setting of the listed item.
5. Enhanced heritage area provisions including control of the demolition or relocation of identified contributing buildings or structures within a heritage area, subdivision and earthworks.
6. New Chapter 3 provisions outlining the information to be supplied with resource consent applications for work affecting listed heritage items.

#### **4. Process & Consultation**

##### ***Key documents***

- Residential Inventory Review 1999
- Non-Residential Inventory Review in 2001.
- Oriental Parade Heritage Buildings Survey 2004.
- Parks Management Review of Properties
- Plan Change 43 – Heritage Provisions
- Wellington City Council Built Heritage Policy 2005
- District Plan Monitoring Programme – Effectiveness of the Plan relating to Heritage - June 2005
- The individual building assessment profiles prepared for Proposed Plan Change 53
- Proposed District Plan Change 48 - Central Area Review

##### ***Consultation with property owners***

With reference to the Wellington City Council owned buildings, the various Business Units were consulted. Overall, the various Business Units support their buildings being listed in the District Plan.

On 31 October the Council consulted with the owners of the buildings and objects identified for proposed listing. At the time of writing this report, 4 responses were received that generally supported the proposals although one requested various amendments to the wording in the profile. 21 letters of opposition were received that covered a variety of issues but there was a definite emphasis on the perceived restrictions that the listing would bring as well as a potential devaluation of property.

All the letters were carefully considered and the process resulted in a number of buildings being recommended for further consideration at a later time.

#### **5. Appropriateness of Objectives**

Section 32 requires the Council to be satisfied that the objectives of the District Plan are the most appropriate means of achieving the purpose of the RMA. Proposed District Plan Change 51 does not change any of the objectives in the District Plan.

#### **6. Appropriateness of Policies, Rules and Other Methods**

Section 32 also requires the Council to consider whether the policies, rules and other methods used in the District Plan are the most appropriate methods of achieving the Plan's objectives.

The following options assess the efficiency, effectiveness and appropriateness of the proposed plan change:

## **OPTION ONE**

### **Do Nothing / Don't List / Non Regulatory Approach (with or without advocacy / education)**

#### Explanation

Given requirements to protect identified heritage values, protection through listing in the District Plan provides the most direct means for securing heritage items . If items are not listed there is a real threat that they may be demolished or relocated. There are other District Plan measures that work to encourage retention, but without listing this can not be assured.

Other measures that work to assist retention include:

- Inner Residential demolition control provisions
- Existing District Plan policies and rules and proposed policies and rules under District Plan Change 48
- Heritage advocacy and education

#### Efficiency and Effectiveness

From experience, Council is aware that a non-regulatory approach is not an efficient or effective way of protecting the city's heritage.

In the absence of listing, advocacy and education provides the primary alternative method for protecting heritage, particularly on private land. The application of financial incentives is also used to a limited extent. While these methods are useful they provide no sanction against the destruction or removal of a heritage items.

Public ownership may also provide greater certainty for the protection of heritage items but it is unrealistic to expect public ownership as a primary means of protection.

A non regulatory approach is unlikely to achieve the Councils key heritage objective of recognising and protecting the city's heritage. Where items are not listed the Council is most often in a reactive position when dealing with development proposals affecting heritage. Negotiation with owners may be successful in retaining various heritage elements but without the force of regulation through District Plan rules there is nothing to prevent the eventual loss of items.

#### Key Benefits and Costs of Non Regulatory Option

##### Benefits

- No direct constraints on owners or developers to retain heritage items
- Certainty for owners/developers in development potential of their property
- Reduced compliance costs

##### Costs

- Community costs through loss of heritage values
- Diminished sense of place and townscape
- Reduced certainty for owners/developers
- Possible delays for owners/developers
- Higher compliance costs for owners and developers
- Perceived devaluation of property

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## **OPTION TWO**

### **Proposed Plan Change**

#### **The Listing of Heritage Items - Regulatory approach**

##### Explanation

Past history has shown that while there are examples of positive private initiatives to protect heritage e.g. restoration of many inner city residential houses, buildings of heritage value can be lost without listing.

The Council has a long history of listing heritage items through the District Plan rules from the introduction of the first District Scheme in 1972. Since this time there has been ongoing extensions to the list of items and strengthening of the rules.

More recently, amendments have been made to the Resource Management Act that recognise heritage as a matter of national importance (s6) which has been reflected in the Council's Built Heritage Policy and proposed District Plan Change 43 (Heritage Review).

##### Efficiency and Effectiveness

Listing through the District Plan rules has been found to be an efficient and effective means of protecting important aspects of the city's heritage.

The listing means that buildings that are subject to potential development must be assessed through a resource consent process. This is not prohibitive process, but rather a process for consideration and exploration of how the heritage significance of a listed building can be protected in a manner that is appropriate.

Listing in the District plan does not generally cover internal alterations. With regard to buildings it is only the exterior that is protected. Property owners still have scope for refurbishment, renovation and adaptive re-use. Any extension of the listing i.e. to include protection interiors, would require further detailed evaluation and change to the District Plan.

Monitoring shows that under listing, few listed buildings are totally lost.

Listing therefore directly achieves the Council's objective of recognising and protecting heritage and the regulatory approach provides certainty that items will be protected or where development is proposed it can be appropriately scrutinised.

##### Key Benefits and Costs of Non Regulatory Option

##### Benefits

- Enhanced protection of heritage
- Enhanced protection of townscape and sense of place/vibrancy
- Assessment of applications to secure improved design/redevelopment solutions

##### Costs

- Less certainty for owners/developers
- Possible delays for owners/developers
- Higher compliance costs and need for resource consent
- Possible blighting if listing limits adaptive reuse of buildings

Of the 2 options considered, Option 1, do nothing/do not list/non-regulatory, would not be an appropriate means to achieve the new heritage objective as it does not ensure the future safeguarding of the buildings and objects that have been identified as having heritage value. The Built Heritage Policy has a clear objective to continue to identify built heritage places with significant heritage value to ensure their protection, promotion, conservation and appropriate use for present and future generations. This coupled with changes to the Act indicates that there would be an environmental cost of lost heritage values and a social/cultural cost in people's experience if the buildings and objects were lost. If the loss of historic heritage is great it may even equate to an economic cost to businesses and the population, due to changes in people's perceptions of what they like about the city, which would affect whether they visit and spend money in the city.

Option 2, the Proposed District Plan Change regulatory approach is recommended because it is considered to be the most efficient and effective way to protect the buildings and objects identified, with the best outcome in terms of the costs and benefits at the environmental, social/cultural and economic levels.

## **7. The Risk of Acting or Not Acting**

The evaluation under section 32 must consider the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the proposed approach. In this case, it is considered that there is no significant issue of risk in respect of the information available to support the proposed listings. The items proposed for listing have been fully researched and carefully evaluated and the information is sufficient to support the proposed change.

## **8. Recommended Proposed Plan Change**

Option 2 is recommended for the following reasons:

- the proposed plan change reflects the intentions and amendments to the Resource Management Act 1991, which made historic heritage a matter of national importance.
- the proposed plan change will implement the Council's the Built Heritage Policy.
- The listing will recognise the heritage value of important buildings and objects and will promote their protection