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AN ANALYSIS OF LOCAL AUTHORITY IMPLEMENTATION OF LEGISLATIVE PROVISIONS FOR THE MANAGEMENT AND PROTECTION OF ARCHAEOLOGICAL SITES

Vanessa Tanner

A thesis submitted for the degree of Master of Arts in Anthropology at the University of Otago, Dunedin, New Zealand 2002
Abstract

Local authorities are identified as playing a significant role in historic heritage management at the local level. The aim of this thesis was to determine whether local authorities are in a position to be given greater responsibility for historic heritage and particularly archaeological resource management. This thesis presents a discussion of the historical development of legislative provisions for the management and protection of historic heritage. Archaeological information is considered imperative for appropriate local authority management of archaeological resources, this thesis assesses the current state of archaeological information available to local authorities. In order to determine the role local authorities currently play, a questionnaire survey was designed to procure an understanding of what planners perceived their councils responsibility was and how they were actively managing historic heritage. To acquire an appreciation of the actual practice of historic heritage management two case studies were conducted. Case studies involved interviewing planners, members of the two communities and individuals who had first hand experience of the archaeological authority process.
Acknowledgements

Thanks primarily to my supervisor Dr Ian Smith, not only for supervising this thesis but also for dealing with my enrolment and registration when I have been working at the other end of the country. I would like to thank all the people, far too numerous to list here, whose continued support and encouragement have allowed me to complete this thesis. I am indebted to all those people who allowed me to interview them, and whose help was invaluable. Thanks particularly to Mary O’Keeffe who answered my questions on a number of occasions. To staff members at the DOC, the NZHPT and the various museums that I contacted for information. Thanks to Sarah Ross for the expert advice, formatting skills and general help. Thank you to my family and friends who are, no doubt, all thoroughly tired of hearing about my thesis, particularly Melanie with her knowledge of planning, Bridget, and Dave who read my thesis at various times. Additional thanks to Dave for providing me with an insight into the real world of legal practice.
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### Acronyms and Terms

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<th>Description</th>
</tr>
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<tbody>
<tr>
<td>ARC</td>
<td>Auckland Regional Council</td>
</tr>
<tr>
<td>CHI</td>
<td>Cultural Heritage Inventory</td>
</tr>
<tr>
<td>CINZAS</td>
<td>Central Index of New Zealand Archaeological Sites</td>
</tr>
<tr>
<td>DOC</td>
<td>Department of Conservation</td>
</tr>
<tr>
<td>GIS</td>
<td>Geographical Information System</td>
</tr>
<tr>
<td>GPS</td>
<td>Global Positioning System</td>
</tr>
<tr>
<td>ICOMOS</td>
<td>International Council on Monuments and Sites</td>
</tr>
<tr>
<td>INZA</td>
<td>Institute of New Zealand Archaeologists</td>
</tr>
<tr>
<td>HPA 1993</td>
<td>Historic Places Act</td>
</tr>
<tr>
<td>MfE</td>
<td>Ministry for the Environment</td>
</tr>
<tr>
<td>NZAA</td>
<td>New Zealand Archaeological Association</td>
</tr>
<tr>
<td>NZHPT</td>
<td>New Zealand Historic Places Trust</td>
</tr>
<tr>
<td>NZRAS</td>
<td>New Zealand Register of Archaeological Sites</td>
</tr>
<tr>
<td>QLDC</td>
<td>Queenstown Lakes District Council</td>
</tr>
<tr>
<td>RMA</td>
<td>Resource Management Act 1991</td>
</tr>
<tr>
<td>SRF</td>
<td>Site Record Forms</td>
</tr>
<tr>
<td>TDC</td>
<td>Tasman District Council</td>
</tr>
</tbody>
</table>

For the purposes of this thesis the terms territorial authority and local authority have the same definition as in section 2(1) of the Local Government Act 1974:

Territorial authority means a city council or district council. Local authority is the term applied to all Regional, District, City and Unitary councils.
CHAPTER 1  INTRODUCTION

This thesis is an analysis of local authority implementation of legislative provisions for the management and protection of archaeological sites. The principle aim of the thesis is to investigate the role local authorities play at present, and determine whether they are in a position to be given greater responsibility for historic heritage management.

The Parliamentary Commissioner for the Environment (PCE) (1996a) identified local authorities as organisations with a key role in historic heritage management and protection. Upon the conclusion of the PCE enquiry the Department of Conservation (DOC) undertook a review of historic heritage management in New Zealand. One of the suggestions proposed in the PCE report (1996a) and the DOC review (1998a) was that local authorities be given greater responsibility for historic heritage management. This thesis investigates the practicality of this proposal by analysing current local authority historic heritage management practice. Of particular concern is the proposal to give local authorities greater responsibility for archaeological resource management by incorporating the provisions of the Historic Places Act (HPA 1993) into the Resource Management Act (RMA). Of significant interest is the adequacy and sources of archaeological data that have been made available to councils to enable them to fulfil their role as historic heritage managers.

This study investigates the various ways local authorities interpret and implement the historic heritage management provisions of the current legislation. At present, the system of historic heritage management is one in which numerous organisations have statutory requirements. Local authorities can be seen to play a critical role in historic heritage management at a local level. A study of the historical development of organisations and statutory provisions was undertaken in order to develop an understanding of how the legislative system for historic heritage management evolved. This was followed by an analysis of the current statutory provisions for the management and protection of historic heritage, particularly archaeological sites. To understand how archaeological sites are being managed at the local level, this thesis examines the practical application of the legislation by local authorities.

1.1  Defining heritage

'As we enter the twenty-first century the most exploited and misunderstood word or idea in the field of public history is 'heritage'. Unfortunately, New Zealand currently lacks a widely understood or agreed definition of this word' (Trapeznik and McLean 2000:14).
Central to this thesis is the concept of heritage, its meaning, and how archaeological sites are incorporated into historic heritage resource management. A substantial commentary has been produced on the concept of heritage and why people endeavour to preserve it. The term heritage is one that is not easily defined. Heritage encompasses a broad range of items including aspects of both the natural and cultural environment. According to Davison (1991:3) '[o]ne of the important uses of 'heritage' was simply as a convenient omnibus term for all those miscellaneous items – objects and sites as well as buildings - which were in danger of being lost'. Historic heritage is not static, it is inclusive of changing systems of values, 'heritage resources are therefore defined according to individual and collective attitudes, values and perceptions, wants, technology, economics, politics, and institutional arrangements' (Hall and McArthur 1998:5). In a recent study on New Zealand's perceptions of heritage Warren and Ashton (2000) found that individuals considered heritage to be an integral part of their lives. New Zealanders in the study group believed that heritage was meaningful and subjective, '[p]eople felt that they could not define who they were and where they belonged in the absence of some knowledge of their heritage' (Warren and Ashton 2000:1).

Historic heritage provides a connection between past and present, it helps form individual and collective identities. Physical reminders of history provide symbols of the past that contribute to an individuals sense of place.

'Certainly symbols of the past are used to create senses of unity, nationalism and regionalism. But at the individual and local level too, people use local history and genealogy in order to create a more immediate sense of place' (Hodder 1993:17).

To maintain and promote a sense of identity individuals and communities attempt to preserve their heritage. 'The urge to preserve derives from several interrelated presumptions: that the past was unlike the present; that its relics are necessary to our identity and desirable in themselves; and that tangible remains are a finite and dwindling commodity' (Lowenthal 1985:389). The idea of what constitutes heritage has shifted from something that existed on a more personal or individual level, to something that is shared or valued by the community. This has enabled historic heritage items to be used in the promotion of national identity and pride; '[t]he maintenance of historic sites, structures, districts and cultural landscapes as an archive of historical information, and particularly the retention of historical material culture in the interests of the younger generation, allows for land-based heritage and cultural landscapes to help shape national identity' (Warren-Findley 2001:20). This has often resulted in the preservation of historic heritage that reflects dominant cultures in society and reinforces that
dominance. ‘One cogent perspective is that heritage has mostly been content with values in mainstream histories rather than exploring rival meanings, has sided with those holding power over city development, and has thus implicated itself in maintaining social inequalities’ (Russell 1993:13). History and cultural identity is associated with politics and power.

‘History is an interpretation of the past from the vantage point of the present. It is never impartial or value free. The past is always scrutinised in terms of ideologies and ambitions of the generation that writes it’ (Mane-Wheoki 1995:5).

There is a danger inherent in attempts to foster national identity as the items that are preserved often do not accurately reflect a nation's history, rather ‘[h]eritage offers the consolation of a glorious, if largely fictitious, past to a nation in the midst of a painful present’ (Davison 1991:4).

Archaeological sites are the physical remains of human interaction with the environment, therefore they are considered an aspect of cultural heritage. ‘The term ‘cultural resources’ has usually been used to refer to only those parts of the cultural heritage, those manifestations of humanity, physically represented in the landscape by ‘places’ (that is, cultural resources which occur on, or are an integral part of, land or landscape)’ (Pearson and Sullivan 1995:5). Archaeological sites are situated on the interface of cultural heritage and physical resources. ‘Archaeological sites can be described as being tangible or physical in that they were shaped and formed by human action’ (Derby 1999:5). In New Zealand a recent decision by Judge Sheppard in the Minhinnick vs Watercare found that ‘archaeological remains (including koiwi) are natural and physical resources from which people and communities may in a metaphysical way take spiritual and cultural strength and comfort, and a sense of identity (1997 New Zealand Resource Management Appeals 289:301)

Figure 1.1 illustrates the position of archaeological resources in cultural heritage management. Legislation in New Zealand has not attempted to define heritage, but it is clear that archaeology in New Zealand legislation has come under the umbrella of “cultural heritage” and often more specifically “historic heritage”. The International Council on Monuments and Sites (ICOMOS) Charter (1993) defines cultural heritage value as something possessing historical, archaeological, architectural, technological, aesthetic, scientific, spiritual, social, traditional or other special cultural significance, associated with human activity. Cultural and historic heritage have broad, overlapping definitions and are often linked with natural heritage. According to the PCE report (1996a:4) ‘unlike natural heritage, historic and cultural heritage has aroused little public debate about its sustainability or about the notion that, like biodiversity loss, loss of historic and cultural heritage is permanent.’ Historically, cultural
heritage has been neglected, it has failed to gain the recognition required to be managed as a resource comparable to natural heritage. Cultural heritage is generally intangible, open to varied interpretation, and does not conform to one value system. In comparison natural resources are tangible physical entities the protection of which can be witnessed. New Zealanders appear to be in denial of the history and historic heritage resources in this country, according to Mosley (1999:10) '[i]n New Zealand, in accordance with Western perceptions of heritage, the perceived absence of monumental architecture is typically equated with a lack of history'. The result being that the environment, although considered holistically in legislation, is not managed in this way.

Like other forms of historic heritage, '[t]he development of archaeology, and especially the idea of protecting the archaeological heritage, is intimately linked with various political ideologies, whether national, colonial or imperialist' (Kristiansen 1989:23). Today archaeological sites are considered to possess a number of cultural values. In New Zealand archaeological sites are often wahi tapu and are valued for their cultural significance to Maori; 'Maori values, in particular, have a special position in heritage legislation and practice' (Walton 1999:10). In the resource management context all values must be considered when weighing up proposed changes to a land use, and archaeological or scientific values are only one of a number. Of importance to archaeological site preservation is the fact that the majority of recorded archaeological sites in New Zealand are Maori, many of these may be regarded as wahi tapu and can therefore be protected through legislation pertaining to the preservation of wahi tapu. For information on aspects of wahi tapu in legislation and planning a number of documents provide useful discussion (MfE 1992, Manatu Maori 1991, Nuttall and Ritchie 1995, Derby 1999, Mosley 1999).

'Because archaeology is an academic discipline, archaeological heritage management in New Zealand will always be split between the aims of promoting Maori management of sites, of enhancing public conservation values, and finally, of protecting sites as a source of knowledge on which the discipline depends. For this reason the protection of archaeological sites presents a different case to that of historic places in general' (Allen 1998:55).
Figure 1.1. The position of archaeological sites within the heritage management framework in New Zealand.
1.2 Thesis structure

The first half of this thesis presents a theoretical approach to historic heritage management through an analysis of the historical development of legislative provisions for the management and protection of historic heritage resources. The second half of the thesis examines the practical application of the legislative provisions at the local authority level.

Chapter Two details the development of legislation and institutions involved in archaeological resource management. It identifies all of the legislative provisions that relate to historic heritage management and the statutory role various historic heritage management organisations have been provided with. Chapter Three then discusses the Resource Management Act 1991 (RMA) and the Historic Places Act 1993 (HPA 1993), the principle Acts that create the framework within which archaeological resource management occurs at the local authority level.

Archaeological information is considered imperative for appropriate local authority management of archaeological resources. Chapter Four identifies the types of archaeological information currently available to local authorities to enable them to fulfil their statutory role. The chapter also discusses the deficiencies inherent in many forms of archaeological information currently available to local authorities.

Chapters Five and Six assess the practical application of the legislative mechanisms for local authority management of historic heritage. Chapter Five reviews several studies that evaluate local authority heritage management practice. The role local authorities perceive they play in archaeological resource management were ascertained through a questionnaire survey, the results of which are presented in Chapter Five. Two case studies of local authorities were undertaken to examine archaeological resource management at the local level; these are outlined in Chapter Six.

The final chapter ties together some of the themes common to historic heritage management at the local level and discusses future directions and possible solutions to current historic heritage management problems.
2.1 Introduction

In order to evaluate the present system of archaeological resource management, identify problems, and suggest solutions this chapter discusses the evolution of legislation and institutions involved in historic heritage management and protection in New Zealand. For the purpose of this chapter it has been necessary to trace the development of historic and cultural heritage legislation rather than provisions for archaeological resource management per se. Legislation that can be applied to archaeological sites is more often implied or interpreted than specifically stated in statute. Provisions that specifically mention archaeological sites have been in existence since the Reserves and Domains Act 1953. However, provisions aimed at the protection of archaeological information have only been included in statute since the Historic Places Amendment Act 1975. To develop an understanding of current local authority roles in historic heritage management it has been necessary to broadly trace the principal Acts leading to the devolution of decision making resulting in the present system of local authority management of resources.

Both the prehistory and colonial history of New Zealand are relatively short in comparison with other parts of the world. It is for this reason that many people fail to value the significance of archaeological sites in New Zealand. However the significance of archaeological sites should not be underestimated. They play an important role as a physical link to the past and they are the source of archaeological information for academic inquiry. More recently archaeological sites have been recognised as a socio-cultural resource because they provide evidence of continuity, they create a sense of place and can be wahi tapu. For these reasons archaeological sites have been recognised in statute. Although archaeological information has been considered in legislation for almost a century, protection of the archaeological resource is relatively new.

At the broadest scale institutional and legislative development in New Zealand reflects change at the global level. Changes in the global economy have required New Zealand to promote itself independently and find means of income other than farming, which predominated prior to the 1970s. This has seen a diversification of the economy often physically expressed in multiform land use. In addition New Zealand and the world has witnessed the continued
growth of the tourism industry. Ideologically there has been a shift from the homogenisation of the modernist era to a promotion of difference and celebration of culture characteristic of the post-modern period. New Zealanders recognised the importance of developing a national identity early on in the country’s history. In the past decade it has become evident that this identity must incorporate all of our cultures. Te Papa, the Museum of New Zealand, is testimony to this. Nationally the country has seen the progressive devolution of decision-making. At the local level communities are provided with greater roles in decisions affecting the district in which they live. They also have greater opportunities to create local identities and economies to meet the growing need to promote towns not only for tourism reasons but to create a sense of place. ‘From the 1980s, onwards [...] heritage has become part of a community branding exercise, the creation of a point of differentiation in fostering community pride while luring visitors’ (McLean 2000b:85).

Institutional and legislative development also relate to changes in the discipline of archaeology. Development of the discipline has influenced ideas and perceptions within the institutions involved in the growing historic heritage industry. Archaeological heritage management in New Zealand has taken much longer to become established than the academic discipline. Investigation into the state of archaeological resources and the ways in which they are managed has only become the focus of attention in the past decade. This process is not unique to New Zealand. Cleere (1989:1) mentions that ‘the academic discipline of archaeology and the administrative function of archaeological heritage management are twins that have developed at different rates.’ Academic archaeological inquiry in New Zealand has been a part of understanding our history from the early 1900s, first in museums and later by universities (Table 2.1). It is only in the last twenty years however, that significant growth has occurred in the historic heritage management sector, increasingly independently of the traditional historic heritage institutions.
<table>
<thead>
<tr>
<th>Year</th>
<th>Event</th>
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<tbody>
<tr>
<td>1800s</td>
<td>1852 Auckland Museum established</td>
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<td></td>
<td>1865 Colonial Museum Wellington established, in 1965 it becomes the Dominion Museum</td>
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<td></td>
<td>1868 Otago Museum Dunedin</td>
</tr>
<tr>
<td></td>
<td>1867 Canterbury Museum established</td>
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<td></td>
<td>1892 the Polynesian Society was formed in Wellington</td>
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<td></td>
<td>1898 the Dunedin jubilee inspired the creation of the Otago Early Settlers Museum</td>
</tr>
<tr>
<td>1900</td>
<td>Circa 1900 awareness of the need to protect Maori artefacts</td>
</tr>
<tr>
<td></td>
<td>1919 Dr H. D. Skinner becomes the director of the Otago Museum</td>
</tr>
<tr>
<td></td>
<td>1932 Appointment of David Teviotdale to Otago Museum</td>
</tr>
<tr>
<td></td>
<td>1940 Centennial of European Colonisation celebrations</td>
</tr>
<tr>
<td>1950</td>
<td>1951 Site recording Scheme developed</td>
</tr>
<tr>
<td></td>
<td>Early 1950s University of Auckland Anthropology Department under R. Piddington</td>
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<tr>
<td></td>
<td>1954 Creation of the National Historic Places Trust</td>
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<td></td>
<td>1954 Jack Golson employed by the University of Auckland</td>
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<td></td>
<td>1955 Constitution of the New Zealand Archaeological Association drafted</td>
</tr>
<tr>
<td></td>
<td>1958 NZAA Site Recording Scheme initiated</td>
</tr>
<tr>
<td></td>
<td>1958 Peter Gathercole employed by Otago Museum and the University of Otago</td>
</tr>
<tr>
<td>1960</td>
<td>1960s Janet Davidson employed as the first archaeologist for the Auckland Museum.</td>
</tr>
<tr>
<td></td>
<td>1965 Michael Trotter employed as the first archaeologist for the Canterbury Museum.</td>
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<tr>
<td></td>
<td>1966-67 Historic sites included in the Site Recording Schemes file</td>
</tr>
<tr>
<td></td>
<td>1969 A permanent archaeologist is appointed to the NZHPT</td>
</tr>
<tr>
<td>1970</td>
<td>1970s World wide trend towards conservation legislation</td>
</tr>
<tr>
<td></td>
<td>1975 HP Amendment Act makes it illegal to destroy archaeological sites</td>
</tr>
<tr>
<td>1980</td>
<td>1980s the historic heritage industry emerges</td>
</tr>
<tr>
<td></td>
<td>1984 Te Maori exhibition</td>
</tr>
<tr>
<td></td>
<td>1987 DOC created</td>
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<td></td>
<td>1987 ICOMOS introduced in New Zealand</td>
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<tr>
<td>1990</td>
<td>1990s Rise of the independent historic heritage consultant industry</td>
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<tr>
<td></td>
<td>1990s Treaty Claims are being settled</td>
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<tr>
<td></td>
<td>1996 PCE commissioned an enquiry into the management of heritage</td>
</tr>
<tr>
<td></td>
<td>1998 Heritage Management Review by DOC</td>
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<tr>
<td></td>
<td>1999 Ministry for Culture and Heritage established</td>
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</table>
The history of legislation reflects the rapid changes this country has undergone; it reflects the attitudes of a nation trying to develop socially, culturally and economically. It is a reflection of changing global perspectives, particularly in regard to managing the environment. Figure 2.1 schematically organises the development of legislation that was, and still is in some cases, applicable to cultural and historic heritage management in New Zealand. It includes all of the Acts for which historic heritage provisions will be discussed in this and the following chapter. Figure 2.1 demonstrates how past Acts were remodelled into new pieces of legislation and indicates the Acts that are currently in use today. The figure represents the reorganisation rather basically as many provisions of early Acts were repealed or split among several new statutes. The aim is to illustrate the progression of the legislative change that has a relationship to historic and/or cultural heritage management.

This chapter is broken up into the following sub sections: heritage management prior to 1950, 1950 –1960, 1960 –1980 and the 1990s. These sub-divisions are, in the writer’s view, periods of time in which significant developments in New Zealand’s historic heritage consciousness and relevant statute occurred.
Figure 2.1 Historical development of legislation applicable to historic heritage management
2.2 Heritage Management Prior to 1950

The first institutions with a responsibility for managing and promoting natural, cultural and historic heritage were museums. The Auckland Museum was first established in 1852, and Wellington's Colonial Museum, Otago and Canterbury Museums followed in 1865, 1868 and 1870 respectively. In addition to Dunedin's Otago Museum, the Otago Early Settlers Museum was established in 1898 to explore early colonial history. In 1919 the Otago Museum employed H.D. Skinner who began teaching a one-year archaeology course in 1920. During his time at Otago Museum, Skinner arranged the 1932 appointment of David Teviotdale who became the first professional archaeologist employed in New Zealand (Trigger 1989:140). Other museums employed archaeologists much later, with Auckland and Canterbury doing so in the 1960s.

Early legislation in New Zealand was passed in a piecemeal fashion and resulted in numerous Parliamentary Acts related to specific locations and issues, rather than for application to the nation. Many of the early statutes have been consolidated over time forming bodies of legislation that apply to New Zealand as a whole. Most notably the Resource Management Act 1991 (RMA) incorporated over seventy of the previous statutes. Legislation aimed at protecting New Zealand's historic and cultural heritage has been in existence for almost a century. Natural heritage preservation can be traced back still further to the Public Reserves Act 1854. Prior to the 1950s several statutes could be applied to historic heritage protection.

Land Act 1892

Perhaps the first Act of New Zealand's Parliament to be applied to the protection of heritage was the Land Act 1892 that enabled limited purchases such as that of Ships Cove in the Marlborough Sounds in 1896 (McLean 2000b:75). Amendments to the Land Act were consolidated with the Land Act 1924. Under Part XI of this Act the Governor General could set aside Crown land for a reserve. Theoretically this Act could be applied today, as it is still in use as the Land Act 1948. Under section 167 the Minister (currently the Minister of Conservation) may set apart as a reserve any Crown land for any purpose which is desirable in the public interest. Although this is so, the historic heritage provisions of the Land Act 1948 have been surpassed by a number of other Acts which are written more specifically for the purpose of historic heritage management. The Reserves and Domains Act 1953 followed by the Reserves Act 1977 are examples.
Maori Antiquities Act 1901

During the initial period of colonial New Zealand there was early recognition of the importance of preserving artefacts as well as sites. This stemmed from an awareness of the value cultural items had gained through their trade. Between 1769 and 1901 the collection and trade of Maori artefacts proliferated, ‘it was not until 1898 that the conscience of any Colonial politician was sufficiently stirred for the matter of the protection of cultural and scientific specimens to be raised in the House of Representatives’ (McKinlay 1973:13). In 1901 the Maori Antiquities Act was passed with the aim of preventing the removal of antiquities from New Zealand. This Act empowered the Government to purchase items deemed important for the history of the colony. The Act, however, did not prevent continued trade and export and, as a result, penalties for the export of Maori artefacts were deemed necessary and were introduced in 1904. The Maori Antiquities Act was consolidated in 1908 and remained the legislation that controlled the export of Maori artefacts from the country until the Historic Articles Act was passed in 1962 (McKinlay 1973:18).

Scenery Preservation Act 1903

According to Leach (1991:83) measures designed to protect cultural heritage were initiated at the turn of the century with the Scenery Preservation Act 1903. This Act also signified a conscious beginning of the development of a New Zealand identity. Under the Scenery Preservation Act 1903 a Commission of five people was set up in order to acquire blocks of land of scenic, historic or thermal significance. In terms of archaeology it is significant that the Commission included three individuals with a keen interest in Maori prehistoric sites (Leach 1991:87). The Commission, although achieving a great deal in its short existence, was revoked following the Scenery Preservation Amendment Act 1906. Administration was passed to the Ministry of Lands and Survey whose approach was to be more cost effective. The 1906 Amendment Act made it an offence to damage the historic features of a reserve. In 1910 the Scenery Preservation Act was amended again, giving the ‘government power to take native land for scenery preservation purposes’ (Leach 1991:86). Acquisition of land reached a peak in 1911-1912 but little attention was given to archaeological sites. During 1917 W. H. Skinner [Commissioner of Crown Lands for Canterbury] and J. Thomson [Director of the Dominion Museum] tried to rectify this due to their concerns for the preservation of Maori rock art in Canterbury, the issue was not raised again until the setting up of the National Historic Places Trust in 1954 (Leach 1991:87).
Public Reserves Act 1908

The Public Reserves Act 1908 is similar to both the Land Acts and the Scenery Preservation Acts in that it contains provisions for setting aside land for reserve purposes. These three Acts are a few of many Acts of New Zealand Parliament that contain provision for reserves. Other examples include the Education Reserves Act 1928 and the Defence Act 1908. The Public Reserves, Land, and Scenery Preservation Acts, however, are the most likely of the Acts to have been applied to historic and cultural heritage. Under the Public Reserves Act 1908 power was given to both the Governor General and local authorities to create reserves. In 1928 provision for creating national parks was added to the Act and it was renamed the Public Reserves, Domains and National Parks Act 1928. Under section 71 the Governor General could, among other things, make land subject to the Scenery Preservation Act 1908 into a national park. The national park section of the Public Reserves, Domains and National Parks Act 1928 was moved into the National Parks Act 1952. However the new National Parks Act was concerned solely with scenery and natural features. The following year the provisions for Reserves and Domains were incorporated into the Reserves and Domains Act 1953.

During this early period, legislation concerning historic heritage was written not only to reflect the ideals of the institutions concerned with its protection, but also to protect the rights of private land owners. In many ways those ideals have persisted in legislation today. According to Vossler (2000:58)

‘Any legislation which has at its core an objective to protect places of identified heritage value is, on balance, likely to impinge on the rights of private owners. Given the general reluctance of many governments to introduce legislation which interferes with such rights a precautionary approach is often applied by legislators.’

Although interest was developing during the provincial centennials of the 1930s it was the 1940 national centennial celebrations of European colonisation that led to an increased interest in items of historical importance to the nation. According to Lucas (1984:5) the purchasing of Busby Estate at Waitangi and its presentation to the nation in 1940 by Lord and Lady Bledisloe signified the first step towards a New Zealand Historic Places Trust. In 1943 the Government purchased Pompallier House and the management and control became the duty of the Department of Internal Affairs. With this purchase came a realisation of the need for ‘a systematic way of dealing with our historic buildings instead of the one off approach that had applied up until that time’ (Lucas 1984:5). However, it took another ten years and the Private Members Bill introduced by Duncan Rae in 1952 to prompt the Government to take action (Lucas 1984:5).
2.3 1950 To 1960

According to Davidson (1974:6) the late 1950s saw a rapid development in New Zealand archaeology. Anthropology departments were established at both Auckland and Otago universities in the 1950s. Auckland University employed its first archaeologist Jack Golson in 1954. In 1958 Peter Gathercole took up a joint position at the Otago Museum, lecturing stage one anthropology/archaeology at the University of Otago (Gathercole 2000:208).

In 1951 the New Zealand Site Recording Scheme was developed through a grant received by the Hawke’s Bay Branch of the Royal Society of New Zealand to investigate the setting up of such a scheme (Davidson 1974:2). The Constitution for the New Zealand Archaeological Association (NZAA) was drafted in 1955 (Golson 1955:349) and the Association was up and running by 1958. Simultaneously the Site Recording Scheme was instituted. Under the scheme there were to be district file keepers who collected, processed and assigned site numbers and a central file for the country. The scheme was to ‘provide a national framework for the recording of prehistoric sites in a simple but systematic way.’ (Daniels 1971:77). The primary purpose of the scheme was to provide a research tool rather than a protection measure; however, over time its role in the protection of sites has become increasingly important. This rapid development in archaeological institutions is also reflected in the legislation developed during the period 1950 to 1960.

**Historic Places Act 1954**

The other significant historic heritage institution to be set up in the 1950s was the National (now New Zealand) Historic Places Trust set up by the Historic Places Act 1954. The purpose of the organisation, outlined in section 3 of the 1954 Act, was

> preserving and marking and keeping permanent records of such places and objects and things as are of national or local historic interest or of archaeological, scientific, educational, architectural, literary, or other special national or local interest.

Under this Act penalties could be imposed on anyone who interfered with a historic place. At this time the National Historic Places Trust was administered by the Department of Internal Affairs; this continued until 1987 when the Trust came under the jurisdiction of the DOC. The Historic Places Act did not, at this stage, contain any specific provisions for archaeological resource management, these were introduced with the Historic Places Amendment Act 1975. In the beginning the Trust relied heavily upon voluntary work. Initially employing one paid staff member, the number of staff had only increased to thirteen by 1975 (McLean 2000a:35).
During the 1950s a number of statutes were introduced which relate to the management and protection of historic and cultural heritage. The Town and Country Planning Act 1953 provided the legal framework for the preparation of the planning schemes by local bodies (McKinlay 1973:49). The **Town and Country Planning Regulations 1960** provided the ‘means for the preservation of objects and places of historical or scientific interest or natural beauty.’ (Daniels 1970:51). This was achieved by giving authority to local bodies to keep a register of places or objects of interest or beauty. These regulations prescribed the detailed procedures to be followed in preparing schemes. Regulations required that every scheme included *inter alia*, “a scheme statement”, which has a statement that described the particular purposes of the district scheme. The third schedule of the regulations provided a suggested form of scheme statement. Of interest is Clause 2 Part X of the suggested scheme statement stating:

> ‘The objects and places of historical or scientific interest or natural beauty listed in Appendix VIII hereto are to be registered, preserved and maintained so far as the powers of the Council or local authority from time to time permit.’

Local bodies were also required to notify landowners and occupiers of an item’s location, in the hope of protecting sites on private land. In addition it specified that no person shall wilfully destroy, remove or damage an item listed in the register. This system of management was advantageous because it created responsibility and awareness at a local level. Unfortunately there was a lack of national co-ordination and guidance. According to Neave (1981:5), the Town and Country Planning Acts never made it compulsory for district schemes to introduce provisions for heritage protection. Kelly (2000:122) mentions that ‘[the] level of protection afforded by these district plans was entirely at the whim of the local authority in question.’

This Act also allowed for the cancellation of register entries although to cancel a registration would require public notification. Brown (1962:74) expressed concern over the effect cancellation of entries had on the protection of sites, a major problem being the difficulty of monitoring the activities of twenty four Local Bodies which, under the Act, could include and take sites off a register at will. The Town and Country Planning Act 1953 and amendments were consolidated by the Town and Country Planning Act 1977. It is interesting to note that by 1977 matters to be dealt with in Regional and District Schemes include marae, urupa reserves, pa, and other traditional and cultural Maori uses. In 1991 the Act was repealed by the RMA.
Municipal Corporations Act 1954

In terms of the effect land subdivision may have on historic heritage, theoretically section 351 of the Municipal Corporations Act 1954 could be applied to protect a historic heritage item under threat from development. The Act was repealed by the Local Government Act 1974. Today subdivision of land comes under the RMA 1991 and remains within the jurisdiction of territorial authorities.

Reserves and Domains Act 1953

The Reserves and Domains Act 1953 stemmed from the Public Reserves, Domains and National Parks Act 1928 and repealed the Scenery Preservation Act 1908. The Reserves and Domains Act 1953 included various provisions for historic heritage and, according to the Department of Conservation (1995a:2), ‘this legislation, for the first time, made it clear that historic reserves were a separate category from scenic, thermal, and other reserves.’ Part V of the Reserves and Domains Act 1953 made provision for establishing historic reserves. Private historic reserves could be set up with agreements between private landowners and the Minister [s65]. This is a similar provision to the heritage covenant of the Historic Places Act, although to become a reserve the Minister must be satisfied that its creation is for the public good. However, the ability of the Minister of Lands to revoke a reservation [s18] was a source of concern (McFadgen 1966:94). The Act also allowed the Minister to promote, supervise or authorise excavations by scientific organisations provided they had the consent of the landowner [s67]. Interestingly section 67 also contained the provision that nothing in the section ‘shall be deemed to prevent the owner of any land from making any such excavation or carry on any such activities on his land’. The Reserves and Domains Act 1953 was subsequently repealed by the Reserves Act 1977. Currently the Minister may still require survey, including excavation, but since 1975 nothing in the Reserves and Domains Act is to contravene Historic Places Act.

Maori Affairs Act 1953

Theoretically the Maori Affairs Act 1953 could be applied to the protection of archaeological sites. Under Section 493 of this Act ‘the Governor General, on the recommendation of the Maori Land Court could set aside as a reserve any Maori Land which is, among other things, of scenic or historic interest.’ (McFadgen 1966:94). Brown (1962:77) was of the opinion that
this ‘does apply very well, but only to Maori owned land.’ Te Ture Whenua/The Maori Land Act 1993 repealed the Maori Affairs Act 1953.

2.4 1960 To 1980

In 1960 “threatened” and “scheduled” categories were added to the NZAA Site Recording Scheme forms: threatened for obvious reasons; scheduled being for sites of great importance to New Zealand history. These categories were important additions for the fact that information gathering could become more focused depending on whether or not a site was at risk of disappearance. The focus of archaeology in the 1960s was on information recovery, rather than the preservation of archaeological information or sites for future generations. In 1961 the idea of an artefact-recording scheme was developed (Daniels 1963:146), but the scheme was never implemented. In 1966-1967 historic sites were introduced into the site recording scheme (Davidson 1974:13), although their inclusion was subject to much debate. In 1969 a permanent archaeologist was appointed to the staff of the NZHPT (Davidson 1974:13).

The twenty-year period 1960 to 1980 was significant in the development of heritage related legislation primarily because of increased worldwide environmental awareness.

‘The development pressures of the 1960s and the environmental movement of the 1970s had a profound effect on archaeological heritage management. It is significant that almost every European country enacted new antiquities legislation during the 1970s’ (Cleere 1989:4).

The rapid development of legislation containing historic heritage provisions characteristic of the 1950s did not continue into the 1960s. It can be inferred that the earlier period legislation was allowed time to settle in order to witness its development and interpretation. McFadgen and Daniels (1970:160) believe it was due to apparent inadequacies in legislation relating to archaeological sites that the NZAA began to try and change legislation from the 1960s on. The period 1960-1980 is characterised by various amendments to historic heritage provisions as the legislation was tried and tested. The period is also characterised by an apparent shift in attitude toward a greater emphasis on conservation.

Historic Articles Act 1962

The Historic Articles Act 1962 surpassed the Maori Antiquities Act 1908 and differed for the fact that it aimed to control rather than prevent the export of historic articles and items of scientific importance, due to its concern for the rights of individual owners. McKinlay
(1973:42) criticised the Act for placing importance on the artefact rather than its archaeological or scientific significance and for making no provision preventing the destruction of archaeological sites by fossickers of historical items. The Act was too narrow in its focus. It was repealed by the Antiquities Act 1975.

Burials and Cremations Act 1964

The Burials and Cremations Act implemented in 1964 can still be applied to the protection of historic graveyards. Decisions as to whether historic cemeteries survive reside with the Minister of Health, who may give the authority to remove gravestones and monuments under section 45 and bodies under section 51. In 1979 subsection 2(A) was added to section 45, which requires the NZHPT to be notified of any proposal to remove historic gravestones and monuments. The Act does not apply to Maori burial grounds [s3].

The 1970s saw a ‘world-wide swing towards conservation legislation’ (Fung and Allen 1984:216). This was accompanied by an increasing sense of the need for a national and indigenous identity for New Zealand. It is evident that the cultural and natural landscapes were considered intricately linked, natural and cultural/historic heritage being encompassed together under the body of legislation that came from this time period. This linkage has had a significant impact on the way archaeological sites and cultural heritage are perceived; ‘sites relevant to a developing national ethos are now being managed like any other resource.’ (Fung and Allen 1984:217). Of significance for historic heritage preservation and management is the devolution of responsibility for decision making to the local level. This is a theme that is increasingly propagated under the present system, and the proposal to give greater responsibility for heritage to Local Government under the Proposed Resource Management Amendment Bill 1999.

Local Government Act 1974

The Local Government Act 1974 was written in order to devolve power from Central Government by setting in place the appropriate framework for decision making and governance at a local level. It was an extension of the principals of the Town and Country Planning Act. However, it was not until the late 1980s that major changes to the Local Government Act created greater accountability in decision making at the local level. This was achieved through the introduction of a three-tier government structure introduced in the Local Government Amendment Act 1989. The PCE report (1996a:80) mentions that through
legislative responsibilities under this Act, such as the promotion of economic well-being or the promotion of regional tourism, local authorities could 'carry out significant heritage-related work.'

**Historic Places Amendment Act 1975**

According to Barber (2000:23) 'archaeological site protection was first recognised in legislation under the *Historic Places Amendment Act 1975*. This Act includes a definition of an archaeological site; which included a rolling date inclusive of items over one hundred years old. The Amendment Act also introduced sections 9F to 9N. These sections refer specifically to archaeological sites. Section 9F(1) made it unlawful to destroy, damage or modify the whole or part of a site whether registered under section 9G or not. Section 9F(2) gave the NZHPT the authority to grant permission to destroy, damage or modify a site and section 9F(3) made the cost of scientific investigation the responsibility of those intending to destroy, damage or modify a site unless they were destroying, damaging or modifying for the purpose of farming. Section 9G required the NZHPT to develop and maintain a Register of archaeological sites. In response to section 9G the NZAA Site Recording Scheme Central File was passed to the NZHPT in order that the NZHPT could fulfil their statutory obligations under the Historic Places Amendment Act 1975 (Smith 1994:289). The NZAA Site File’s newly created dual function was as a scientific tool and a planning mechanism (problems related to this are discussed in Chapter Three). The NZHPT then developed the New Zealand Register of Archaeological Sites (NZRAS), a selection of archaeological sites that includes a small number of the archaeological sites recorded in the NZAA Site File. Section 9H required authorisation from the NZHPT for any archaeological investigation, and sections 9H and 9K dealt with providing information on registered archaeological sites for the District Land Register and district schemes. Sections 9L and 9N detailed the rights of appeal and offences.

In the mid 1970s a joint project between the NZHPT and the NZAA set up CINZAS (Central Index of New Zealand Archaeological Sites) a computerised database of the NZAA paper file that became operational in 1982 (Tony Walton pers.com 13/9/01). The original objective was to include all Site Record Form information, including site descriptions, aids to relocation and additional free text. However the setting up of the database coincided with a rapid growth in the number of records in the file in the late 1970s and 1980s. Due to resource constraints the amount of information on each archaeological site had to be scaled down, the inclusion of free text information was considered beyond resource capabilities (Tony Walton pers.com 13/9/01). The database continues to operate using a custom written program. It includes core
data on archaeological sites, site type, grid reference and whether a site is Maori or European for example.

**Treaty of Waitangi Act 1975**

Up until the 1970s Maori issues were not considered in statutes related to planning and land use (Matunga 1997:109). The Treaty of Waitangi Act 1975 has meant that indigenous rights must be adhered to. It has important consequences for resource management and historic heritage protection due to the fact that the purpose of this Act was to establish a Tribunal to make recommendations and claims regarding the practical application of the principals of the Treaty of Waitangi.

'Full Maori participation in decision-making regarding the conservation and protection of historic places, archaeological sites and wahi tapu is guaranteed through the Treaty of Waitangi, and through the Acts of the New Zealand Parliament and International Conventions, Statutes and Accords' (Allen 1998:17).

**The Queen Elizabeth the Second National Trust Act 1977**

The Queen Elizabeth the Second National Trust Act 1977 can be associated with heritage protection; under section 20(2)(d) one of the Trust’s functions is to undertake the identification and classification of potential reserves and recreation areas considered to be of national, regional, local or special significance. The purpose of this Act is to protect open space and landscape features; it is a mechanism by which private landowners may manage heritage items on their land in perpetuity. According to Allen (1998:13) however, 'the QEII Trust deals mainly with the natural environment leaving heritage matters to the Historic Places Trust.' The administration of the Act currently resides with the DOC.

**The Antiquities Act 1975**

Two of the statutes from the period under review in the above paragraphs directly apply to heritage protection and management in this country today. The first is the Antiquities Act 1975, which controls the trade and export of Maori artefacts. Under the Act all artefacts are the property of the Crown. However this is inconsistent with the Treaty of Waitangi and according to the PCE Report (1996a:A28) the Act has 'proved inadequate to prevent such export and to obtain repatriation of artefacts.' In order to rectify the situation the Taonga Maori Protection Bill was introduced. The Bill is currently on hold pending results of the Taonga Maori Review. The Antiquities Act was administered by the Department of Internal Affairs up until 2000 when it came under the jurisdiction of the Ministry for Culture and
Heritage. Artefacts found in the course of archaeological investigation are subject to the Antiquities Act 1975. Section 11(5) makes it an offence if one fails to notify the chief executive of the nearest public museum on the discovery of an artefact.

Reserves Act 1977

The second Act of the 1970s still applicable to historic heritage management today is the Reserves Act 1977. This Act makes provision for the acquisition, control, management, maintenance, development and use of reserves. According to the Department of Conservation (1995a:1) the Reserves Act 1977 is ‘more powerful than registration under the Historic Places Act 1993, or the Resource Management Act 1991 which provides for listing in a District Plan or the issuing of heritage orders.’ Section 18 allows for the classifying of a reserve based on its historic merit alone. Under section 18 historic reserves include such places, objects, and natural features, and such things thereon or therein contained as are of historic, archaeological, cultural, educational, and other special interest. Section 58 lists the powers of the Minister and Administering Body in respect to historic reserves. Consistent with the earlier Reserves and Domains Act 1953, landowners are able to set up reserves on private land through application to the Minister of Conservation [s76]. A problem inherent in the Reserves Act 1977 is its focus on the ‘principal or primary purpose’ of a reserve and the implication this creates for the management of reserves. Unfortunately, for this reason, historic values may be compromised in enhancing the primary values of a reserve such as recreation or scenery. The Department of Conservation (1995a:2) provides the example of Bowentown Heads in Tauranga Harbour, classified as a recreation reserve. The top of the pa Te Kura a Maia was damaged through the creation of a car park to cater for its primary purpose of recreation. This Act was administered by the Department of Lands and Survey until the Conservation Act 1987 was implemented at which point it was handed to the DOC who actively manage more than half of the registered reserves in New Zealand.

2.5 1980 to 1990

The period 1980 to 1990 saw the consolidation of environmental law and reinforced the 1970s worldwide trend toward conservation and environmental consciousness. The changes to cultural and historic heritage legislation are the result of the culmination of ideas that began to surface in the 1980s. According to O'Regan (1990:101) the Te Maori exhibition in 1984 played an important instigative role. The effect was a heightened awareness of Maori about
issues regarding possession and heritage. Questions of whose right it is to control information and manage the protection of Maori sites are currently at the forefront of the cultural and historic heritage management debate. Legislation of the late 1980s -1990s can be seen to take such matters seriously. It is a statutory requirement under the Treaty of Waitangi Act 1975, the RMA, the HPA 1993 and Te Ture Whenua Maori Act 1993/ Maori Land Act 1993 that ‘Maori culture, historic, spiritual, and physical values in environmental/land-use and social planning’ be considered (Harmsworth 1997:37). So far there have been varying degrees of success. This has a great deal to do with the nature of local government in New Zealand; ‘from the perspective of the Treaty of Waitangi it can be argued that devolution of Crown authority from central government to local authorities is inconsistent with the Crown/Maori partnership established by the Treaty and contrary to the Treaty obligation on the Crown (or central government) to protect Maori interests’ (Hayward 1998:162). In the past local governments appeared reluctant to take on treaty issues. Recent legislation and the devolution of power have required local government to have a greater role in affairs of the Crown.

**Historic Places Act 1980**

In terms of the NZHPT’s role, amendments to the previous Historic Places Act were consolidated in the Historic Places Act 1980. The legal powers given to the NZHPT under the 1975 Amendment Act were augmented in the 1980 Act. Sections 35 to 42 dealt with heritage buildings, and section 35 established the buildings classification system. The classifications system did not provide specific protection. This was achieved through the introduction of the protection notice under section 36 of the 1980 Act. To implement classification the NZHPT set up a register of historic buildings, similar to the archaeological register required under the 1975 Amendment Act except that buildings were classified from A to D relative to their significance. Once a protection notice was issued by the Trust any building subject to the notice was protected from demolition or alteration. According to Comrie (1988:8), ‘they are the only way in which a classification by the Trust can have any legal or binding effect’. Section 36(2) made provision for the inclusion of buildings subject to a protection notice in district schemes. A further two heritage categories were introduced in the 1980 Act; historic areas in section 49 and traditional sites in section 50. The Minister of Maori Affairs was required to receive any application for a place to be declared a traditional site. The introduction of the traditional site category signifies an important step in the recognition of Maori values and heritage issues as it separates Maori values from archaeological or other historic heritage values.
Heritage Covenants were introduced under section 52. Covenants allow the NZHPT to enter into an agreement with landowners who wish the historical significance of their property to be protected in perpetuity. Heritage Covenants also mean that the future of an historic place can be recorded and enforced and any financial assistance provided by the NZHPT be safeguarded (Burns 1984:34). In terms of archaeological sites, the section 9 provisions of the 1975 Amendment Act were carried over to the 1980 Act, and were contained within sections 43 to 48. Offences against the Act were moved to Part IV. During the 1970s and 1980s the NZHPT placed an emphasis on archaeological site survey and recording, increasing the NZAA file from less than 10,000 recorded sites to more than 40,000 between 1975 and 1980 (McLean 2000a:39).

National Parks Act 1980

The National Parks Act 1980, previously administered by the Department of Lands and Survey is currently overseen by the DOC. Formerly the National Parks Act 1952 the 1980 Act added sites of archaeological or historic importance to the preservation of scenic and natural features. This is an interesting addition as initially this Act was combined with the Reserves, Domains and National Parks Act 1928 and included provision for historic heritage. Once separated in 1952 the National Parks Act no longer included such provisions. The 1980 Act has a purpose to preserve natural and cultural heritage. This is detailed in section 4 ‘[...] preserving in perpetuity as national parks, for their worth and for the benefit, use and enjoyment of the public [...] (2)(c) sites and objects of archaeological and historical importance’. Section 9 applies to the acquisition of land for national parks and section 12 to specially protected areas in national parks. Both provisions can be used for the preservation of archaeological sites.

Environment Act 1986

The Environment Act 1986 established the Ministry for the Environment (MfE). The functions of the ministry include policy advice to the government and environmental administration, implementation of sustainable management, administration of statutes, advocacy, education and advice to others. The Act also set up the Parliamentary Commissioner for the Environment (PCE) whose role is that of an independent watchdog. This is achieved by reviewing agencies involved in environmental management, and by investigating the effectiveness of environmental planning. ‘Both the Ministry and the Commissioner have a firm basis in statute and, unlike the previous situation are not mere

Conservation Act 1987

Under The Conservation Act 1987 the Department of Conservation (DOC) was set up with the duty to preserve natural and cultural features of New Zealand. The conservation estate covers almost a third of New Zealand’s land area which was previously administered by the Department of Lands and Survey and the Forest Service (Wilde 1987:10). The Department procured CINZAS, and currently manages the NZAA Site Recording Scheme Central File. In 1988 the archaeologists employed by the NZHPT were transferred to the DOC but continued to service the NZHPT’s statutory archaeological requirements through formal agreement until 1993, at which point the DOC withdrew its archaeological services (Barber 2000:25). According to the PCE (1996b:A26) this decision was based on legal advice to the effect that it was no longer appropriate for archaeological services to be provided to the NZHPT as it was not a Crown entity. In 1995 the DOC published its ‘Historic Heritage Strategy’ defining the Department’s priorities in regard to historic heritage. The strategy made it a priority for the DOC to manage historic heritage on the conservation estate. The NZHPT is considered the leading advocate for “off-estate” historic heritage although the DOC provides a supportive role.

‘At first glance the outcome of the changes in legislation and administrative organisation for the protection of archaeological sites looks messy’ (Allen 1988:151-152). The advantage of this system of management is regional representation; the Department employs more archaeologists than any other institution in New Zealand. Even so, Allen (1991:17) points out that ‘although the Conservation Act 1987 directs the Department to preserve and protect both natural and historic resources, the Department sees its primary function as nature conservation.’ In regard to Maori, section 4 makes it a policy of the Department that tangata whenua should participate in the management of sites of significance to them.

It was through the Conservation Act 1987 that central government had a direct link to historic heritage management. Schedule 1 required the DOC to administer the Historic Places Act; previously the NZHPT had liaised with the Ministry of Internal Affairs. ‘Although the overall
responsibility for administering the HPA 1993 currently rests with the Department of Conservation, the agency which largely gives effect to the purpose and principals of the Act is the New Zealand Historic Places Trust' (Vossler 2000:62). The PCE (1996a) inquiry into historic and cultural heritage management revealed that the DOC was not managing historic and cultural heritage appropriately, particularly following the heritage strategy of 1995 which shifted the Department’s focus to the conservation estate. ‘Even on conservation estate, intense internal competition for funding is hampering DOC’s progress with integrated heritage management.’ (PCE 1996:34). On October 1st 2000 the HPA 1993 was repealed from Schedule 1 of the Conservation Act 1987 by s12 of the Archives, Culture, and Heritage Reform Act 2000. Since then the administration role played by the DOC has been transferred to the Ministry for Culture and Heritage, formally known as the Ministry of Cultural Affairs.

Local Government and Official Information and Meetings Act 1987

Under this Act any person may apply to a territorial authority for a land information memorandum (LIM) for any land in a district of that authority. Section 44A(2)(d) requires LIMs to include information concerning any consent, certificate, notice, order, or requisition affecting the land or any building on it previously issued by the territorial authority. Section 44A(2)(g) requires LIMs to include information notified to a territorial authority by any statutory organisation having the power to classify land or buildings such as the NZHPT under the HPA 1993.

Rating Powers Act 1988

The Rating Powers Act 1988 repealed the Rating Act 1967 which Neave (1981) lists as one of the Acts inhibiting the provision of financial assistance by local authorities for historic heritage. In 1992 the Rating Powers Amendment Act introduced Part XIIB. Sections 180G and 180H provide local authorities with the ability to adopt policies for the remission or postponement of rates for the purpose of preserving voluntarily protected historic heritage within the district.

Institute of New Zealand Archaeologists (INZA)

The Institute of New Zealand Archaeologists was set up in 1984 when some professional members of the NZAA saw the need for oversight in archaeological consultant and assessment work and the standardisation of rates of pay (Coster 1984). The institute
developed its own code of ethics and professional membership requirements. John Coster (pers.com. 3/8/2001), former chair of INZA, believes the institute met its demise in 1997 for a variety of reasons including low membership numbers and lack of support from many contract archaeologists and established institutions, for example museums, universities and the NZHPT.

**International Council on Monuments and Sites (ICOMOS)**

Established in 1965, this international organisation has committees in more than 107 countries. ICOMOS is the principal advisor on conservation and preservation of monuments and sites to UNESCO. The New Zealand National Committee of ICOMOS was founded in 1987. ‘The international codes of practice established by ICOMOS and its other affiliated member countries offered benchmarks which could be emulated in New Zealand’ (Kelly 2000:123). In 1993 ICOMOS New Zealand published the ICOMOS New Zealand Charter for the Conservation of Places of Cultural Heritage Value. This document has had considerable impact considering the size of the organisation in New Zealand. It has become the standard for conservation practice in institutions such as the DOC and the NZHPT. According to Mary O’Keeffe (pers.com 30/7/2001), chair of ICOMOS New Zealand, most councils have taken up the principals of the charter in some form or another, some councils (Christchurch City Council) have made the ICOMOS New Zealand Charter a Council policy for dealing with historic and cultural heritage.

**Local Government Amendment Act 1989**

In terms of the evolving development of heritage management at a local level major changes to the framework of local government were established with the Local Government Amendment Act in 1989. This amendment created a three-tier arrangement by introducing the regional level into the system of national and local governance. The present system was designed to promote greater participation and accountability in planning and reduce costs for central government.

2.6 1990s

The 1990s saw the growth of an independent historic heritage consultant industry. It is also accompanied by an increased number of independent archaeological consultants. The
development of the archaeological consultant sector is perhaps most pronounced in the Auckland region. Evidence of this is illustrated in Table 2.2.

Table 2.2 demonstrates that in the decade since the introduction of the RMA the amount of archaeological work being completed by consultant archaeologists has increased substantially. In the years prior to 1991 the majority of archaeological survey and assessment reports were produced by the NZHPT and the New Zealand Forest Service.

Table 2.2: Number of archaeological survey and assessment reports produced in the Auckland region between 1900 and 2000

<table>
<thead>
<tr>
<th>Year</th>
<th>Total number of reports</th>
<th>Number of reports produced by consultants</th>
<th>Percent of reports produced by consultants</th>
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</tr>
<tr>
<td>1991-2000</td>
<td>388</td>
<td>313</td>
<td>81%</td>
</tr>
</tbody>
</table>

(Source of information: Auckland Regional Council’s Cultural Heritage Inventory)

Of the seven Acts created in the 1990s two of these dominate the management and protection of historic heritage. They are the RMA and the HPA 1993, both of which are discussed in Chapter Three as the primary tools of historic heritage management in New Zealand. Other Acts related to historic and cultural heritage which often work in conjunction with the two primary Acts are discussed below.

**Museum of New Zealand Te Papa Tongarewa Act 1992**

In addition to the RMA 1991 and HPA 1993 a number of Acts emphasise the growing awareness of cultural heritage values to emerge during the 1990s. The aim of the Museum of New Zealand Te Papa Tongarewa Act 1992 was to create a museum to ‘present, explore, and preserve both the heritage of its cultures and knowledge of the natural environment’ [s 4]. The museum was created in recognition of the need to promote and develop a uniquely New Zealand identity. Such ideas are not new and were evident at the turn of the century, for example the creation of the Polynesian Society in 1892, the early colonial legislation for the preservation of heritage, and the centennial celebrations. The creation of the museum plays an important role in heritage management as an educational tool and for the promotion of New Zealand’s culture and historic heritage.
Te Ture Whenua Maori Act 1993/Maori Land Act 1993

Te Ture Whenua Maori Act 1993/ Maori Land Act 1993 replaced the Maori Affairs Act 1953. Similarly it has the potential to protect archaeological sites. The Act is administered by Te Puni Kokiri. Its purpose is to promote the identification, protection, preservation, and conservation of the historical and cultural heritage of New Zealand. This can be achieved through the creation of reserves. If the land is not Maori or Crown owned land the Maori Land Court can recommend that the Crown purchase land for a reserve.

The Building Act 1991

The purpose of the Building Act 1991 is to ensure that buildings are safe and sanitary. In conjunction with the Building Code the Building Act 1991 controls the design of buildings. According to the PCE (1996a:48) earthquake insurance provisions and the lack of heritage value recognition in the building code has potential to create the greatest effect on heritage buildings due to the cost of insurance and structural upgrading required for such buildings. The Building Act contains some provision for historic buildings. Section 27(2)(c) requires that territorial authority keep records of any statutory authority, such as the NZHPT, which has the power to classify land or buildings for any purpose. Section 31(2)(b) requires that PIMs (Project Information Memoranda) include NZHPT notified sites.

The Ngai Tahu Claims Settlement Act 1998

Under the Ngai Tahu Claims Settlement Act 1998 section 210(2) creates a mandate for the NZHPT or the Environment Court to determine if Te Rununga o Ngai Tahu is an affected party in relation to an archaeological site within their statutory area. It is appropriate to note that due, in part, to the result of Ngai Tahu settlement claims the historic and cultural heritage management inquiry was initiated by the PCE in 1995/1996.

Archives, Culture and Heritage Reform Act 2000

The most recent Parliamentary Act applicable to historic and cultural heritage management is the Archives, Culture and Heritage Reform Act 2000. This transformed the Ministry of Cultural Affairs into the Ministry for Culture and Heritage which now administers, among others, the Antiquities Act 1975, the Historic Places Act 1993 and Te Papa Tongarewa Act 1992. The most obvious shift in term of archaeological heritage management is the removal of the HPA 1993 from the supervision of the DOC to administration by the new Ministry. In this
way a new distinction is drawn between natural/environmental heritage and cultural heritage. It is interesting that after a century of combining the natural environment with human history that the two concepts are separated with the introduction of the new Ministry.

2.7 Discussion

This chapter has demonstrated that over the past one hundred years a significant amount of effort has been invested in deciding how to define and protect New Zealand’s historic heritage. The result being that there is a substantial amount of legislation for the management and protection of historic heritage, and a variety of organisations with statutory provision for historic heritage management (NZHPT, MfE, DOC, Ministry for Culture and Heritage, regional and territorial authorities). The development of the historic heritage management industry has been influenced by a number of factors including changing global ideas. In the last two decades increased environmental awareness has led to the development of sustainable management strategies. In addition there has been global recognition of indigenous peoples’ rights, evident in the development of international conventions and charters for example; the ICOMOS charter and the International Code of Ethics approved by the World Archaeological Congress in 1991. Nationally, the driving force behind heightened cultural heritage awareness is that an indigenous identity for the country is considered imperative. Significant progress has been made at a national level due to the motivation of practitioners in institutions such as the NZAA, NZHPT, universities and museums, also independent practitioners and tangata whenua who have influenced both the development of the legislation and historic heritage management practice in this country. The PCE report (1996a:47) on historic and cultural heritage management found that ‘in many communities key individuals both inside and outside agencies have driven attempts to recognise and protect historic and cultural heritage’. The result is reflected locally in different historical landscapes created through the retention of places of historical significance whether they be a historic building or streetscape, a pa site or a shipwreck.

In the last twenty to thirty years New Zealand has developed an enhanced sensitivity toward the importance of valuing Maori cultural heritage and the ownership of information, including archaeological information. A consequence of such trends has been a progression toward protecting archaeological sites for future generations rather than just the information contained within them. Today it is recognised that historic heritage cannot be representative if comprised solely of old, aesthetically pleasing buildings. To collate a historically correct
sample, a wide range of heritage items must be preserved, including archaeological sites. In legislation archaeological sites are valued primarily for their information content. Today archaeological sites are recognised to have a number of values, for example they are valued for their significance to Maori, they have value as educational tools and as physical reminders of the past. This has meant that a range of management options need to be explored before archaeological sites are destroyed through excavation.

Cultural and natural heritage have primarily been linked in New Zealand legislation, particularly in early statutes such as the Scenery Preservation Acts and the Public Reserves and Domains Acts. Historic heritage, in its own right, was first recognised in statute with the implementation of the Historic Places Act in 1954. In 1987 the Act came under the jurisdiction of the DOC, again linking cultural and natural heritage. The NZHPT has been criticised for its colonial heritage focus, the DOC for its attention to natural heritage at the expense of historic heritage. A major finding of the PCE Report (1996a) was the loss of Maori heritage and the inadequacy of the current system to manage and protect Maori cultural heritage appropriately. This is likely to be representative of a historic and cultural heritage management system dominated by Pakeha. It illustrates the need to procure Maori involvement in places of significance to Maori.

This chapter has demonstrated that legislation is reflective of changing ideological values. The system of government has undergone significant change. Through the Town and Country Planning Acts and the Local Government Acts decision making power has been increasingly devolved. It has reached a point where, in theory, local communities through the current planning regime are given the opportunity to make a greater contribution to the way their districts are managed. This has wide-ranging implications for the management and protection of historic heritage. There is clearly a requirement for community level recognition of historic heritage values. If communities can perceive the benefits of preserving their historic heritage, protection measures will be implemented at a local level. Currently the RMA is the principal tool guiding local authority management of resources. The ways in which the RMA can be applied and appropriate mechanisms available to other historic heritage management agencies and the community are discussed in the following chapter.

Despite efforts made by heritage management institutions and legislators archaeological sites continue to be destroyed, and consequentially information is lost. In the past the focus on archaeological information recovery came from universities and museums. Today the majority of the excavation work is carried out in a resource management capacity, with local
authorities and independent consultants now operating at the forefront. The following chapter explores the legislative framework responsible for the developing historic heritage management industry within which archaeological resource management operates today. It appears that New Zealand has further to progress before the legislation and organisations will be adequately able to protect and manage archaeological sites. It has only been in the past five years that the system has been reviewed, the results of which may not be evident for some time.
CHAPTER 3  THE CURRENT LEGISLATIVE REGIME

3.1 Introduction

The two primary pieces of legislation that protect historic heritage in New Zealand are the Resource Management Act 1991 (RMA) and the Historic Places Act 1993 (HPA 1993). A number of historic heritage organisations operate within the framework created by these Acts. The devolution of decision making has situated local authorities and historic heritage consultants at the forefront of historic heritage management at a local level.

The Historic Places Act has been in existence in various forms since 1954. In comparison the RMA is a new piece of legislation. Although the RMA has its foundations in the Town and Country Planning Act, the fundamental basis of the RMA is sustainable management, a concept new to legislation. The RMA was implemented as a result of a growing worldwide trend toward environmental planning and protection. Under the RMA the environment is considered holistically; both cultural and natural environments are regarded as one, ‘it embraces an underlying tenet: that attaining sustainable management requires an integrated, holistic approach’ (Nuttall 1996:2). It aims to incorporate cultural heritage, particularly Maori cultural heritage into sustainable environmental management. Under the RMA historic heritage is considered one of a number of resources that must be taken into account when making planning and resource management decisions.

With regard to historic heritage management strategies adopted in other parts of the world Kristiansen (1989:26) provides a broad summary

‘[I]n most of Europe protection is accorded to individual monuments, the types often being detailed in the legislation. Outside Europe (in North America for instance) protection is ensured in National Parks, and in this way a total sample of the monuments in a landscape is preserved. However outside the Parks there is little or no control or protection.’

In comparison New Zealand represents a combination of these strategies. Although all archaeological sites are protected under the HPA 1993 different organisations have differing roles depending on whether sites are located within parks and reserves or on private land. The DOC is the largest employer of archaeologists as they have the task of managing historic heritage on the conservation estate. The aim is to preserve representative samples within particular environments. Outside the conservation estate historic heritage sites and areas may be Registered under the HPA 1993 or scheduled under regional or district plans. The NZHPT
maintains the Register of historic places, areas, wahi tapu and wahi tapu areas in the country. The NZHPT advocate historic heritage preservation as registration affords no legal protection. Local authorities are required by the RMA to have “regard” for historic heritage. This can be achieved through listing such items in plans and providing policies and rules for their preservation. The destruction of archaeological sites requires NZHPT authority. Today independent consultants carry out the majority of archaeological investigation and monitoring.

There are five categories under which an archaeological site can be recognised in law: archaeological site, historic place, historic area, wahi tapu and wahi tapu area. Values attributed to archaeological sites vary depending on the category they are classified under, and different categories offer different protection. As an “archaeological site”, values assigned are primarily scientific or academic, with an emphasis on preserving the archaeological information rather than the archaeological site.

The following chapter outlines the RMA and the HPA 1993 as the principal tools used in the management of historic heritage, and the function local authorities are provided with under the current legislative regime. Throughout the chapter the findings of the PCE Report (1996a) on historic and cultural heritage management have been incorporated.

3.2 Historic Places Act 1993

The Historic Places Act has been in existence for almost fifty years, and archaeological provisions have been included since the Historic Places Amendment Act 1975. The HPA 1993 is currently in use despite efforts of the National Government (1996-1999) to have the HPA 1993 incorporated into the RMA. The purpose of the Act is to ‘promote the identification, protection, preservation, and conservation of the historical and cultural heritage of New Zealand’. Since 1993 the NZHPT has been a non-Crown owned organisation set up as an independent, non-governmental, corporate body. However, Allen (1998:9) believes that the NZHPT ‘uncomfortably straddles the divide between being a government agency and a national trust.’

The 1993 Act introduced the categories wahi tapu, wahi tapu areas, historic places and historic areas as a way of classifying historic heritage as an enlargement on the two ways of classifying historic heritage under the previous Act. Barber and McLean (2000:100) believe that ‘until fairly recently, New Zealanders paid greater attention to individual buildings or
sites than to drawing connections between sites and places’. Including the term “area” in the
classificatory system goes some way toward promoting a greater awareness in this respect.

than historical’ approach to the past. This perspective is reflected in the places that are
preserved. In addition the NZHPT has been criticised for being monocultural in approach. In
1993 the Maori Heritage Council was added to the Trust in order to rectify this situation. The
functions of the Council are set out in section 85. Any application made to destroy, damage or
modify an archaeological site of significance to Maori is now required to be processed by the
Maori Heritage Council which provides advice on obtaining further consent or consultation.
The implication for archaeological site management is that ‘statutory procedure and
requirement for consultation with iwi have helped to discourage the use of invasive
techniques’ (Walton 1999:16). Under the 1993 Act Maori can be seen to be provided with a
greater role in the management of Maori cultural heritage. Under section 18(3) tangata
whenua consent is required before archaeological investigations get underway. In the past,
‘Maori exposure to archaeology is limited to giving or denying consent for interfering with
sites perceived as culturally important or tribally significant’ (O’Regan 1990:100).

Heritage Orders

Historic heritage can be protected under the Act in several ways. The first is through Heritage
Orders (a development of the protection notice of the 1980 Act) which can only be issued by a
heritage protection authority. Heritage Orders are set out in section 5 of the Act and
correspond with the Heritage Order process detailed within Part VIII of the RMA. Heritage
Orders are primarily used to protect historic buildings from development or demolition.
Although archaeological sites have their own provisions under sections 10 to 20 of the Act,
heritage orders have been used to protect archaeological sites.

Heritage Covenants

Heritage Covenants introduced under the 1980 Historic Places Act are another way of
protecting historic heritage. They are set out in section 6 and continue to be used as a tool for
safeguarding the future of a site through an agreement between the landowner and the
NZHPT. Section 8 requires that every heritage covenant be registered in a District Land
Register in accordance with section 167 of the Land Transfer Act 1952. Derby (1999:36) lists
several problems related to the implementation of covenants: they are expensive to complete,
they are time consuming and they are difficult to enforce in the High Court. Although the NZHPT is enabled by law to enforce the protection of historic heritage it believes that ‘sites are best protected by letting people know where they are and what they represent’ (Sheppard 1987:148). In this way protection can be accomplished through the awareness and appreciation of landowners and the community.

Archaeological Provisions

Under the Act an archaeological site is defined as: any place in New Zealand that -

(a) Either -

(i) Was associated with human activity that occurred before 1900; or

(ii) Is the site of the wreck of any vessel where that wreck occurred before 1900; and

(b) Is or may be able through investigation by archaeological methods to provide evidence relating to the history of New Zealand.

The definition of archaeological sites in the HP A 1993 is slanted toward academic inquiry. A site is defined in terms of the ability to provide archaeological information through investigation. This has important implications for archaeological site management and protection; essentially the HP A is protecting information rather than sites or values that may be associated with them. According to the PCE (1996a:A4-A5) there is a potential conflict between ‘protection for inherent values and emphasis on information content, the collecting of which may adversely affect those inherent values.’

The way archaeological sites and information are protected under the current legislative regime is through sections 10 to 20 of the HP A 1993. Section 10 of the Act makes it unlawful for any person to destroy, damage or modify the whole or any part of an archaeological site, knowing or having reasonable cause to suspect that it is an archaeological site, except in the case where authority has been granted under section 11, 12 or 18 of the Act. This means that all archaeological sites including as yet undiscovered sites are protected by the law. In practice however, the NZHPT or a prosecuting body must prove that an individual knew that they were destroying an archaeological site before they can be penalised. In the past the NZHPT has been financially unable to take offenders to court, ‘the nationwide application of authority provisions is hampered by the small scale of staffing and funding made available to ensure compliance and to prosecute violations’ (Challis 1995:175). In the period January 2000 to September 2001 however, the NZHPT had successfully prosecuted offenders in four cases
where archaeological sites had been destroyed, damaged or modified (Rick McGovern-Wilson pers.com 28/8/01). In each case offenders received a fine. These results are advantageous for the fact that they make a public example of offenders against the Act.

Authority applications are included under sections 11 and 12; section 12 is for a general authority pertaining to a specified area rather than a site. According to Walton (1999:18) the objective of sections 11 and 12 has been criticised for having a narrow approach, one that focuses on the potential to provide evidence, 'it apparently excludes other values, particularly Maori values.' However, Walton (1999:18) believes that the strength of this approach is that it 'allows for a range of mitigation options and does not reduce to a simple 'keep it or lose it' dichotomy'. This can be achieved through conditions the NZHPT can impose on the authority. The granting of an authority is covered in sections 14 to 17. The PCE Report (1996a:37) found that the HPA protects archaeological information rather than the archaeological sites through regulating which ones are destroyed, damaged or modified.

Archaeological investigations are covered under section 18. The NZHPT in considering an application will assess the competency of the person proposed to carry out the archaeological investigation, the purpose of the investigation and the adequacy of resources available to that person [s.(18)(2)(1)(b)]. According to Barber (1998:60) ‘an authority may not be required for controlled sub-surface investigation above or around a site, or to gather information on the landscape and context in which a site exists, where however there is no intention to modify any site.’ The NZHPT has the right to impose conditions that it sees fit on any archaeological investigation [s.(18)(1)(b)]. Investigations require the consent of the landowner and occupier and where appropriate the consent of the iwi authority or other body that the Maori Heritage Council deems appropriate [s.(18)(3)]. Artefacts found during archaeological investigations are subject to the Antiquities Act 1975. It is a requirement [s19] that the NZHPT notify the Minister of Culture and Heritage or the nearest public museum after granting an archaeological authority. Under section 18(4) all archaeological work must conform to accepted archaeological practice. It is through these provisions that a standard of archaeological practice and quality of archaeological consultant is perpetuated. For other types of archaeological work, assessments or survey work for example, there is no minimum qualification or standard required.

According to Allen (1998:36-37) the mechanisms for protecting the information contained with an archaeological site were stronger under the previous two Historic Places Acts than under the 1993 Act. This is primarily due to the generous provisions for appeal under the
current regime (HPA 1993 and RMA) which have re-established the dominance of private property rights when it comes to archaeological site protection.

**Penalties**

Offences against the HPA 1993 are included in Part V sections 97 to 108. Under section 99 any person who destroys, damages or modifies an archaeological site, knowing or having reasonable cause to suspect that a site is an archaeological site without an authority from the NZHPT may be liable for a fine of up to $100,000 for destruction and up to $40,000 for damage or modification. In addition fines of up to $40,000 may be imposed on anyone who contravenes or fails to comply with conditions set out in an authority. Fines can also be incurred by a person who destroys, damages or modifies any historic place, area or wahi tapu that is under interim registration.

**The NZHPT Register**

Part II of the HPA 1993 deals with the registration of historic places, historic areas, wahi tapu and wahi tapu areas. Section 22 requires that the NZHPT establishes and maintains a register of these places. The functions of the Register are to (a) inform members of the public, (b) notify owners of these places and (c) assist these places to be protected under the RMA. An archaeological site does not have to be registered with the NZHPT to be protected under this Act, nor does it have to fit the strict definition provided in the Act if the NZHPT has good reason to require that the site be protected. The criteria for inclusion in the Register are outlined in section 23. Vossler (2000:63) says it is interesting to note that ‘there is no right of objection to the outcome of this process, although this is compensated by the fact that registration does not in itself confer protection over any place or area included in the register.’ According to McLean (2000b:79) ‘most of New Zealand’s historic places – 79 per cent of the 5,900 registered by the Trust in 1998 – are privately owned’.

Allen (1998:34) feels that in regard to the Register the NZHPT has failed to meet the requirements of the Act and that this shortfall is reflected at local authority level:

> ‘The Register and most local government heritage initiatives are designed to identify and protect only a minority of places, ones that are judged to be important according to inadequate and biased criteria. While the Trust is comfortable with this approach, it is one that fails the broad mandate given to it by Parliament. […] The legislation requires that the NZHPT protects historic places on behalf of all sections of the community.’
Section 34 requires the NZHPT to maintain and supply a record of registered places to territorial local authorities. Under section 35 the NZHPT can notify Local Authorities of any registered historic place, historic area, wahi tapu or wahi tapu area to be included in land information memoranda (LIMs) issued by the territorial authority under the Local Government Official Information and Meetings Act 1987 and project information memorandums (PIMs) issued by the territorial authority under the Building Act 1991. The NZHPT is often regarded as the sole heritage protection agency rather than the leading one. Councils have acknowledged their duty to include NZHPT Registered sites in their plans, however they often fail to obtain other types of information on historic heritage resources.

In fifty years the changes to the various Historic Places Acts have generated a greater workload for the NZHPT. Without receiving the funding or staff the organisation requires, increasing hardship has been felt with each new piece of legislation. The ‘New Zealand Historic Places Trust has been forced to perform multiple heritage roles with inadequate resources with a commitment on part of the government that has been lacklustre at best’ (Allen 1998:63). In 1993 the DOC withdrew its archaeological support from the NZHPT and left it ‘struggling to fulfil its core regulatory responsibilities since 1993’ (Barber 2000:26). The PCE inquiry found that on the whole the NZHPT was not performing adequately and that it was ‘limited in its ability to monitor and enforce HPA authority provisions at a local level’ (PCE 1996a:85). The absence of a national organisation undertaking archaeological assessment, monitoring and investigation has provided a window of opportunity through which the archaeological consultant sector has emerged.

### 3.3 Resource Management Act 1991

The RMA was enacted by parliament following the global trend toward the recognition and need for sustainable management of resources to protect the environment for future generations. ‘Sustainable management is generally accepted to have three, inter-related components: biophysical or ecological, economic, and social […] all components must be satisfied for sustainability to be achieved’ (Blaschke 1996:13). The purpose of the RMA set out in Part II section 5 is to ‘promote the sustainable management of natural and physical resources’ by;

```plaintext
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, sustaining the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations.
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According to Derby (1999:28) ‘No known analysis has been undertaken as to how to apply that to Maori and/or archaeological sites which are non-renewable resources.’

The PCE (1996a:80) believes that the RMA ‘as the overarching legislation to promote sustainable resource management, provides the main protection mechanisms for historic and cultural heritage through the use of rules and schedules in district plans supported by financial incentives.’ Currently the RMA does not include any specific provisions for the management and protection of archaeological sites but they can be interpreted to be included in the Act. Nor does the Act contain a definition of historic or cultural heritage. Maori archaeological sites can often be classified as wahi tapu. Maori heritage is included in section 6 Matters of National Importance:

In achieving the purpose of this Act, all persons exercising functions and powers under it [...] shall recognise and provide for the following matters of national importance:

(e) The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.

This is reinforced in Section 7: Other Matters, which also makes reference to other forms of historic heritage:

In achieving the purpose of this Act, all persons exercising functions and powers under it [...] shall have particular regard to -

(a) Kaitiakitanga

(a)(a) stewardship

(c) The maintenance and enhancement of amenity values

(e) Recognition and protection of the heritage values of sites, buildings, places, or areas

The fact that historic heritage is not a matter of national importance under the Act means that unlike matters of national importance which local authorities are required to recognise, local authorities ‘merely have to think about whether they should do anything about other matters’ (PCE 1996a:36). Various criticisms have arisen out of the way the Act has been written. Challis (1995:171) describes the wording of the Act as ‘empowering rather than mandatory.’ Allen (1998:26) provides the example that ‘the phrase ‘have regard to’ has been taken by Courts to impose a discretionary rather than mandatory duty on public authorities.’ According to Upton (1996:7) ‘deliberate vagueness is a strategy used, sometimes consciously sometimes not, to reach consensus and to appease submitters’.
Understanding Maori cultural values has become an increasingly important part of New Zealand society. Pakeha have difficulty understanding Maori relationship to the land; "[t]his emotional tenure reaches over present ownership by the Crown or Pakeha farmers to the sanctity of association with tupuna that a place may contain" (O'Regan 1987:144). The RMA has been criticised in its application of Maori concepts in the Act and the narrow definitions placed on some Maori terms; a common example is the term kaitiakitanga. In addition the RMA can be criticised for defining Maori terms in a Pakeha context. While there is some merit in this criticism it is one that forms part of the much larger issue of Maori sovereignty.

Section 8 requires that anyone exercising functions and powers under the Act shall take into account the principals of the Treaty of Waitangi. The RMA makes provision for the incorporation of tangata whenua management of resources. Local government, however, has been offered little guidance in how to accomplish this. This is heightened by a problem that will inevitably occur with the devolution of power; the lack of the appropriate degree of expertise or adequate funding that is required at a local level. The outcome has been a variety of approaches to tangata whenua participation in planning and a lack of continuity being adopted throughout New Zealand. The RMA creates the statutory framework for a partnership between tangata whenua and Pakeha values that ‘appears to be stoutly safeguarded in the provisions of 6(e), 7(a) and 8’ (Nuttall 1996:2). District and regional councils throughout the country have addressed this to various degrees. As a study conducted by Nuttall and Ritchie 1995 for the Tainui Maaori Trust Board has found; ‘in places it has been pitifully slow - certainly in comparison to the speed those same councils have come to grips with other key elements of the new process’ (Nuttall 1996:2). The study also found that in many cases councils paraphrase the Act, and in some cases seem to ignore parts, the overall result has been ‘the evolution of planning Documents that are individual in content, intent and structure’ (Nuttall and Ritchie 1995:4). A similar observation can be made from the variety of ways councils deal with the historic heritage components of their plans as was found in the present study. This is discussed further in Chapter Five.

The management of environmental quality under the RMA focuses on controlling the effects of activities on the environment, rather than the activities themselves. The Act thereby emphasises the importance of setting clear and objective environmental standards. The focus of the Act is on regulating the impacts of human activities on the environment, rather than regulating human activities per se; it is primarily a law to control externalities. Under the RMA prominence is given to the coastal environment due to its environmental fragility and it
being the most densely populated zone in the country. Historically the coastal area supported a greater density of population therefore it is the zone in which the greatest number of archaeological sites are likely to be present.

The introduction of the RMA provided new roles and responsibilities for regional and local authorities. In the administration of the Act, in the area of standards and guidelines, it creates a duty to monitor [s35]. In terms of historic heritage, to fulfil their requirements under the Act, and to aid future decision making and management, it should be becoming increasingly necessary for councils to incorporate appropriate provisions, including objectives, policies, rules and methods for historic heritage management and conservation into their plans.

Planning and policy making

The Local Government Amendment Act 1989 set up 12 regional councils and 74 district and city councils. Four of these are Unitary Councils, they perform the function of both regional and local authorities. Unitary councils are Gisborne, Marlborough and Tasman district councils and Nelson City council. Under the RMA responsibility becomes shared, regional and local government being given greater responsibility for regional and local issues. The three-tier regime has been incorporated into the planning framework of the RMA as is illustrated in Table 3.1:

Table 3.1: Functions of three levels of government under the RMA

<table>
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<th>Management Role:</th>
<th>Produce:</th>
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| **Central Government (DOC, MfE)** | • monitors the implementation of the Act  
• concerned with resources of national importance  
| • National Environmental Standards  
• National Policy Statements  
• statutory submissions |
| **Regional Councils** | • soil, water, air  
• pollution  
• coast  
| • Regional Policy Statements (mandatory, provide policies and methods not rules)  
• Regional Plans (not mandatory, councils restrict and define certain areas at their discretion, can contain rules to assist functions) |
| **District/City Councils** | • landuse  
• subdivision  
• noise  
| • District Plans (mandatory, district issues, contain objectives, policies and rules) |
| **Unitary Councils** | • both regional and district functions |

The three tiers provide a regional perspective to present a more holistic approach to planning and to provide a distinction between local and regional councils to encourage accountability of decision making. Theoretical advantages of such a system include the following:
1. Local government is closer to community concerns therefore it can be much more responsive to such concerns.

2. The people who make decisions have to live with them.


4. There is faster decision making.

5. Such a system is financially advantageous for central government and ideally it should be more efficient.

Under the current regime, devolution of decision making is achieved through the planning and submission process. This is advantageous because as it means district plans should, in theory, begin to reflect community values. This has important implications for historic heritage protection and management. It is up to communities in many ways to encourage councils to include provisions for historic heritage. Therefore pro-heritage communities should have appropriate mechanisms to protect historic heritage resources. The Art Deco Trust of Napier is an example of a society that has actively promoted greater community awareness and preservation of the city’s art deco heritage, and ‘persuaded the Napier City Council to implement district scheme changes to encourage art deco preservation’ (McLean 2000b:85).

The planning and submission process also leads to great variation between districts. This is illustrated in Chapter Five.

Table 3.1 also lists the management role and planning document type each level of government is required to produce. Part V of the RMA defines the purpose and role of Standards, Policy Statements, and Plans.

**National Level**

At a national level the government can introduce a set of National Environmental Standards. To date none have been developed, however, the MfE is developing environmental performance indicators (including marine, biodiversity and hazardous substances for example) for state of the environment reporting. The MfE may also produce National Policy Statements. Such statements provide guidance to local authorities to assist the development of policy statements and plans.

**Section 45**

(1) The purpose of national policy statements is to state policies on matters of national significance that are relevant to achieving the purpose of this Act.
In determining whether it is desirable to prepare a national policy statement, the Minister may have regard to:

(h) Anything which is significant in terms of section 8 (Treaty of Waitangi)

One of the proposed changes suggested by the PCE (1996a) and the heritage management review undertaken by the DOC (1998a, 1998b, 1998c, 1999) was that a national policy statement be prepared for historic heritage. This would provide a national strategy, place greater importance on historic heritage and offer guidance lacking in the system both historically and at present.

The only mandatory policy statement is the New Zealand Coastal Policy Statement which the Minister of Conservation is required to produce. Its contents are outlined in Section 58 are to include:

(b) The protection of the characteristics of the coastal environment of special value to tangata whenua including waahi tapu, tauranga waka, mahinga maatatai, and taonga raranga

The New Zealand Coastal Policy Statement was produced in 1994. It includes policy 1.1.3 (b) and (c) making characteristics of special spiritual, historical or cultural significance to Maori identified in accordance with tikanga Maori and significant places or areas of historic or cultural significance a national priority for protection. In addition, Chapter Two of the policy statement includes policies for the protection of characteristics of the coastal environment that are of special value to the tangata whenua.

Regional and Local Level

Section (30)(1)(b) makes provision for the preparation of objectives and policies in relation to any actual or potential effects of the use, development, or protection of land which are of regional significance. Historic heritage can be included under the definition of what is regionally significant. In terms of regional councils the PCE report (1996a) identified a ‘very important’ role at the regional level in ‘giving effect to heritage sections of regional policy statements and plans, giving support to territorial authorities in undertaking historic and cultural heritage protection and management, and co-ordinating surveys where appropriate’ (PCE 1996a:93). Even though councils must always refer to Part II of the Act (includes provision for Maori) Derby (1999:30) believes that ‘the omission of Maori sites from s 30 can be seen as a reason to view this as less of a priority for regional councils’.
Sections 61, 65 and 66 detail matters to be considered by regional councils when preparing regional policy statements (s61) which are mandatory and regional plans (s65, s66) which are optional.

S(61)(2)(a) Any

(ii) Relevant planning document recognised by an iwi authority affected by the regional plan, and

(iiia) Relevant entry in the Historic Places Register

S(65)(1) A regional council may have, in addition to its regional coastal plan, one or more regional plans prepared in the manner set out in the First Schedule

(3) [...] a regional council shall consider the desirability of preparing a regional plan whenever any of the following circumstances or considerations arise or are likely to arise:

(e) any significant concerns of tangata whenua for their cultural heritage in relation to natural and physical resources.

S(66)(2) [...] when preparing or changing a regional plan, the regional council shall have regard to

(c) Any -

(ii) Relevant planning document recognised by an iwi authority affected by the regional plan, and

(iiia) Relevant entry in the Historic Places register

The PCE report (1996a) identified territorial authorities as the primary protection agencies for historic and cultural heritage at the local level. Section 72 describes the purpose of district plans as being to ‘assist territorial authorities to carry out their functions in order to achieve the purpose of this Act’. Section 74 is written in the same way as section 66 requiring territorial authorities to have regard to any iwi planning documents [s74(2)(b)(ii)] and any relevant entry in the Historic Places Register [s74(2)(b)(iia)]. Reeves (1991:12) believes that ‘it is a step forward for a country which previously had not seen any great benefit in its historic built heritage now to recognise that that heritage may be finite.’

Through policy statements and plans both regional councils and territorial authorities have responsibilities for considering historic heritage. Regional councils can prepare schedules of historic heritage items and provide guidance. Territorial authorities also should prepare schedules of heritage items and implement policies, objectives and rules to control activities in relation to items in a schedule or include historic heritage areas in appropriate planning maps. In regard to the writing of such rules, policies and objectives section 32 requires policy
writers for resource management plans to consider all the available alternatives (including not doing anything) and complete a cost-benefit analysis. The extent to which rules in plans can be written for heritage protection has yet to be established, as there is

‘no definitive case law on the present process of heritage protection using rules within district plan reviews. Section 85 of the RMA makes it difficult to implement rules that may adversely affect private property rights as no references to the Environment Court have yet been heard on rules in district plans developed under the RMA, the extent to which a rules-based approach is allowable is still in part to be determined.’ (Derby, Saunders and McLean 1997:17)

In these sections the RMA gives significant weight to the NZHPT Register of historic places, areas, wahi tapu and wahi tapu areas. This has meant that many local authorities have included registered items in their plans. However in many cases they have interpreted this as the only requirement for historic heritage management and often fail to consider other sources of information for listing in schedules to the plan (refer to Chapter Five). Section 35 creates the duty for local authorities to gather information, monitor, and keep records. To fulfil the mandate in sections 30(1)(b) and 31(a) historic heritage information should be kept. As archaeological authorities granted by the NZHPT predominantly require damage, modification or destruction of archaeological sites to be monitored by archaeologists, councils are not seen to have a requirement to monitor. However updating their records frequently would effectively monitor the conditions of archaeological sites. Ideally all councils should seek accurate up to date information on historic heritage and include this in their plans and have rules and regulations attached in order that such heritage is preserved. There are a number of sources of archaeological information available to councils. The current state of available archaeological data is discussed in Chapter Four. At present Auckland Regional Council is establishing a system of monitoring cultural heritage resources in the Auckland region, the first of its type to be developed in New Zealand (Mackintosh 2001).

Another way in which archaeological information can be incorporated into policy statements and plans is through their being listed in iwi planning documents (IPD) and resource management plans. The legislative provisions detailed above can be seen to place substantial emphasis on Maori participation in the development of policy statements and plans. In practice however these principals have been applied to varying degrees throughout the country. Confusion exists in the area of Maori representation. It is often unclear to local authorities who the appropriate tangata whenua are, the result being that ‘local authorities regularly define who tangata whenua are by making decisions about who to consult’ (Holloway 1997:588). This is, in part, due to the repealing of the Runanga Act 1993, which was to set up a tribal structure iwi runanga, the means through which iwi planning documents
were to be produced. The removal of this Act has had a further implication for environmental planning; the RMA, which was written to include iwi planning documents, was drafted at a time when the Runanga Act 1993 was proposed to exist, the result is that there are ‘no uniform set of iwi bodies to undertake management plans’ (Nuttall and Ritchie 1995:94), nor the funding available.

Although, in light of local government statutory requirements under the RMA, it should be in the interest of local government to provide financial support for the development of IPD, it seems little effort has been made on their part, and ‘the options for funding Maori are very limited’ (Nuttall and Ritchie 1995:70). Tangata whenua are often regarded as only another stakeholder rather than a partner in decision making. The outcome has been that Maori are heard and considered like any other stakeholder rather than on an equal footing with the council. As with any situation of having to share power local bodies may be reluctant to give up their decision making position to the other partner.

Resource consents

The resource consent process is the means through which policies and plans are implemented. A proposal that has an impact upon the environment has to satisfy this requirement.

Resource consents include landuse and subdivision which are administered by district councils, and coastal resource consents which are administered by the DOC (for restricted areas) and regional councils. Provisions relating to resource consents are contained within Part VI of the RMA. To comply with the controlled, discretionary or non-complying activities listed in district plans applicants are required to obtain a resource consent.

Making an application

This is the stage at which it should be determined whether or not an archaeological assessment is necessary. To accomplish this councils require an inventory of known archaeological sites including accurate locational details so that sites can be identified in district plans. Sources of archaeological information which councils may use are discussed in Chapter Four.

Under Section 88(4)(b) of the RMA a resource consent application must be accompanied by an assessment of the actual or potential effects including a social impact assessment and suggested ways in which adverse effects may be mitigated. It must also include any
information a plan requires to accompany a resource consent application [s88(4)(c)]. Section 88(6)(b) requires that any assessment is prepared in accordance with the Fourth Schedule: Assessment of Effect on the Environment. Under Clause 1(h) of the Fourth Schedule the application must include identification of people who would be interested or affected by the proposal and consultation undertaken. It is under this criteria that iwi are often considered an affected party. However according to (Allen 1998:19) ‘[w]hile consultation has been improved and territorial authorities take Maori concerns into account, the process of resource management still follows monocultural models’. It is at this stage the NZHPT should also be identified as an affected party. Therefore councils must be aware of historically important areas or sites in order to advise resource consent applicants to consult both the NZHPT and tangata whenua. Clause (2) details the matters that should be considered when preparing an assessment of the effects on the environment including (2)(d) ‘any effect on natural and physical resources having aesthetic, recreational, scientific, historical, spiritual or cultural, or any other special value for present or future generations’. Problems will occur where local authority plans do not contain archaeological information or rules relating to the management and protection of historic heritage. Such provisions provide indicators as to whether an archaeological assessment is necessary. At the outset an authority applicant needs to be instructed to obtain an archaeological assessment or at least be provided with information on archaeological sites so that they can make a judgement as to whether or not an assessment is necessary.

‘Ignorance or evasion of the assessment process are major risks to archaeological sites […] While it is desirable that appraisals are done by qualified people, many projects are currently screened, if at all, only by local government using recorded sites or predictive models to determine the likely impact on archaeological sites. The onus is on the developer to decide whether to call in an archaeologist to undertake an evaluation. Often no further action will be taken’ (Walton 1999:9).

Authority applicants cannot be held responsible for evasion of the archaeological assessment process if they remain unaware of archaeological resources and the archaeological profession in general. Archaeological assessments are not a standard practice for many resource consent applicants. At present there are few qualified archaeologists available in many parts of the country to undertake assessment, monitoring and investigation. The archaeological consultant sector is small and not widely recognised by the public. A higher profile for the archaeological consultant sector would potentially generate a greater workload. In order to raise awareness, consultants, councils, the NZHPT and other historic heritage organisations all play a role in advocating historic heritage and appropriate archaeological practice.
If the resource consent granting authority is not satisfied with the application further information may be requested under Section 92. Councils may use section 92 as a final attempt, often if pressured by interest groups, to obtain an archaeological assessment from the applicant.

Part X sections 218 to 228 of the RMA refer to subdivision. Subdivisions have to go through the resource consent process but in addition to the provisions of section 88(4) subdivision applications have to include a different set of criteria. Derby (1998:34) expresses concern that ‘the subdivision provisions under sections 218-228 do not specify the need to consider Maori and/or archaeological sites’, which could lead to them being overlooked by an applicant. However, under section 88 the NZHPT can require an archaeological assessment as an affected party, assuming it is identified by a council as an affected party or is made aware of a proposal for subdivision through some other means.

Notification/non-notification

Resource consents are publicly notified if there is a major impact on the environment and non-notified if they meet the requirements of section 94. With non-notified consents there is the potential to neglect historic heritage. Unless a council views historic heritage as a matter of significance to the public and identifies it as a significant resource in the plan, a resource consent application may be non-notified. Queenstown Lakes District Council is a topical example of a territorial authority that frequently uses non-notified resource consents (Chamberlain 2001).

Section 93 Notification of application

(1) Once a consent authority is satisfied that it has received adequate information, it shall ensure that notice of every application for a resource consent made to it in accordance with the Act is

(c) Served on the New Zealand Historic Places Trust if the application

(i) relates to land that is subject to a heritage order or a requirement for a heritage order is otherwise identified in the plan as having heritage value; or

(ii) Affects any historic place, historic area, waahi tapu, or waahi tapu area under the Historic Places Act 1993

(f) Served on such local authorities, iwi authorities, and other persons or authorities as it considers appropriate

If an archaeological site is not registered by the NZHPT or included in a district plan it may be overlooked unless the council requires more information under section 92. To be able to
fulfil their legal requirements under this section it is necessary that councils have accurate information on all historic heritage in their district.

Pre-hearing meetings, joint hearings and combined hearings are covered under sections 99 to 103. Prior to an application being considered by a council there can be pre-hearings to resolve any conflicts between groups. All stakeholders must be represented. If it involves more than one local authority, joint or combined hearings occur.

**Consideration and conditions of resource consents**

Section 104 details on what basis a resource consent application is to be considered and what part of the Act is relevant. Councils and applicants must consider all relevant national and regional documents. Consent granting authorities shall have regard to: any relevant national policy statement, New Zealand coastal policy statement, regional policy statement [s104(1)(c)], and any relevant objectives, policies, rules, or other provisions of a plan or proposed plan [s104(1)(d)]. Additionally an authority must also have regard to any relevant designations or heritage orders or relevant requirements for designations or heritage orders [s104(1)(h)].

Conditions of resource consents are contained within section 108 of the RMA. They provide the basis for council decisions and a guide to the conditions that may be attached to a resource consent. It gives councils the ability to require developments to be conducted in a way that is determined appropriate by council, in accordance with objectives, policies and rules in a plan. However in the end planners can only make recommendations. It is up to council hearing committees to determine whether resource consent is given and decide upon conditions that are imposed.

**Rights of appeal**

Under section 120 the applicant has the right to appeal to the Environment Court and then the Court of Appeal if they are unhappy with the outcome of a council decision in regard to their resource consent application. Section 121 outlines the procedure for an appeal. A case can only be taken to the Appeal Court on a point of law. There are generous provisions for appeal under the RMA. Allen (1998:34) expresses concern that ‘[a]t present, government and council policies promote the use of regulation as the main heritage tool. It is ineffective, however, because the same legislation gives private landowners generous provisions for appeal’.
Heritage provisions

The provision for heritage orders under the RMA duplicates those of the HPA 1993. A great deal of confusion has stemmed from the duplication. Furthermore because there is no clear mandate for councils with regard to archaeological sites, many councils maintain that this type of historic heritage is the responsibility of the NZHPT. Reasons for this include the lack of a definition of historic heritage or archaeological site under the RMA and the fact that all regulation of archaeological sites currently resides with the NZHPT whose authority is derived from the HPA 1993.

Part VIII of the RMA contains provisions for heritage orders. ‘In contrast to the more ‘generic’ requirements relating to policy statements and plans, those that are associated with a notice of requirement for a heritage order are more specifically focussed’ (Vossler 2000:61). A heritage order in the RMA does not specifically refer to archaeological site [s189(1)(a) or (b)]. However heritage orders can be applied to archaeological sites, for example the NZHPT issued a heritage order for a site at Athenree in the Bay of Plenty. Section 187 gives every local authority heritage protection authority status. Under section 188 provision is made for any corporate body to become a heritage protection authority through application to the Minister for the purpose of protecting a place. Individuals, however, cannot become heritage protection authorities. A heritage order is established under section 189 as the appropriate protection mechanism to be used in district plans. A heritage order in the RMA is the same as the heritage order set out in the HPA 1993. A major change to the previous regime is that ‘protection is provided by S194(1) from the moment a heritage protection authority has given notice to a territorial authority of a requirement for a heritage order’ (Reeves 1991:12). Under the previous regime there was a notification period in which a site, not legally protected, could be destroyed. Any protection authority may apply to the local authority for a heritage order. Section 193 gives effect to such an order. Section 195 makes provision for the rights of appeal to the planning tribunal if any person is unsatisfied with a heritage protection authority decision, and section 196 allows for the removal of a heritage order. Under Section 9(2) no person may contravene sections 193 or 194 unless the prior written consent of the requiring authority concerned is obtained.

Sections 197 and 198 deal with the acquisition of land in order to protect a heritage item or items. Section 197 makes provision for the acquisition of land by a heritage protection authority for the purpose of preserving a heritage site. Under section 198 the Planning Tribunal may order the compulsory acquisition of land that is subject to a heritage order by a
heritage protection authority. A Ministry for the Environment report (1997) on heritage provisions in council plans found that the heritage order was not widely used as a protection mechanism by local authorities. Out of fourteen district plans only three had heritage orders in place and of those three only one was placed by a council, the other two were the by the NZHPT (MfE 1997:12). According to Allen (1998:33) ‘Legal advice usually takes the form that to refuse a resource consent or apply a Heritage Order will leave councils or the Trust open to a claim for compensation’.

At the time of writing this thesis a review of the RMA was near completion. As a result of this review a Resource Management Amendment Bill 1999 was produced under the National Government. Of significance to archaeological heritage management the Amendment Bill transferred the regulatory provisions for the management of archaeological sites from the NZHPT and the HPA 1993 to local authorities under the RMA. In November 2000 a new government was elected (Labour/Alliance coalition) and the Resource Management Amendment Bill was put on hold. The Local Government and Environment Committee was established to examine the Bill. As a result the committee has recommended that the archaeological provisions remain under the jurisdiction of the NZHPT by leaving them in the HPA 1993. In addition the Local Government and Environment Committee recommend a definition of historic heritage be introduced into the RMA and that historic heritage be a matter of national significance under section 6(f) ‘the protection of historic heritage from inappropriate subdivision, use, and development’.

3.4 Discussion

This chapter has highlighted the legislative provisions for historic heritage management and the role local authorities have been provided with under the current regime. On the surface it appears that there are adequate statutory provisions under the RMA and the HPA 1993 for the management and protection of archaeological sites. However, the current system has been found to be failing (PCE 1996). There are a number of possible reasons for this. The inadequate protection of archaeological resources by many local authorities can be attributed to the lack of a clear mandate in the RMA. ‘There is a potential gap between the archaeological site provisions of the HPA and the RMA when local authorities fail to provide for the protection of sites in their policies and plans (PCE 1996a:94). Many local authorities are failing to acknowledge their role in archaeological resource management because they
believe it is the role of the NZHPT. The NZHPT is regarded as the sole manager of archaeological resources rather than the leading agency in historic heritage management.

With regard to resource consents and archaeological authorities the Historic and Cultural Heritage Management Review (PCE 1996a) identified the lack of correlation between the archaeological provisions in the HPA 1993 and the consent process under the RMA. The PCE (1996a:99) reports that ‘HPA authority provisions are akin to resource consent processes under the RMA. However as currently defined they are inadequate in comparison to RMA consent processes in respect of local decision-making, consultation, independent assessment and systematic enforcement’. Confusion also arises for the resource consent applicant, as in the case of historic heritage there are seen to be two different processes and two different agencies to deal with for archaeological authorities, assessments and the protection of archaeological sites. This has led to the suggestion that archaeological provisions should be included in the RMA and come under the jurisdiction of local authorities (PCE 1996a:99).

The PCE (1996a) report into historic and cultural heritage management highlighted differences between the HPA 1993 and the RMA. The inquiry found that Maori values are given less weight in the HPA 1993 than the RMA (PCE 1996a:38). In regard to the NZHPT Register of Historic Places the RMA process was one of public input involving community views and values whereas the HPA 1993 process is based on consistent criteria applied by the Trust (PCE 1996a:95). In addition it found that ‘the process has the effect of giving archaeological values priority over Maori historic and cultural heritage values’ (PCE 1996a:85).

It is evident from this and the previous chapter that there are numerous organisations involved in historic heritage management. In the current situation ‘[w]ith various organisations taking roles relating to heritage protection, potential for duplication and inefficient use of resources remains, unless there is co-operation and co-ordination’ (Challis 1995:172). It is clear that local authority support for historic heritage is necessary, as they are the closest environmental monitors for local resources. At present there is insufficient political will and recognition of the cultural value of archaeological resources. The system requires strong central government support, an absence of which is reflected in the weak mechanisms for historic heritage protection and in the under-funded and understaffed lead historic heritage agency, the NZHPT. The PCE (1996a:71) report recommended that ‘[o]f the resourcing deficiencies, the most urgent priorities suggested for action are: increased core funding for the leading national agency responsible for historic and cultural heritage management, a dedicated national
acquisition fund, and local and national incentive funds.' (PCE 1996a:71). For a successfully operative system of historic heritage management there is a requirement for greater public awareness of, and incentives for, historic heritage value and protection. In addition a heightened appreciation of the penalties for destroying historic heritage items and archaeological sites would be advantageous. For councils to adequately protect archaeological sites accurate archaeological information needs to be made available to local authorities. Sources and reliability of archaeological information is examined in the following chapter.

The current legislative regime has lead to a system of independent operators undertaking archaeological research in a salvage or resource management capacity. There are a number of possible reasons for the growth of the consultant archaeologist sector. The development of resource management legislation and the information protection focus of the HPA 1993 mean that salvage work is an appropriate way of managing archaeological sites. According to Allen (1998:11) 'the emphasis on saving the information in archaeological sites rather than saving the site itself has meant that salvage excavation rather than long term protection is the outcome of most Authority applications.' Museums and universities do not operate in a salvage archaeology capacity. There is no government agency to undertake the work as the NZHPT is overworked and under staffed and the DOC is primarily concerned with sites on the conservation estate. This development can also be attributed to economic and policy changes over the past two decades, resulting in an increase in independent consultants in many sectors.
4.1 Introduction

In order for local authorities to adequately manage and protect archaeological resources they require appropriate archaeological information to include in their plans and policy statements. Accurate archaeological information is critical for local authority identification, management and protection of sites. The principal ways councils can obtain archaeological information is through the NZAA Site File, the NZHPT Register and also from iwi planning documents and iwi resource management plans. This chapter assesses currently available sources of archaeological information and the capacity of these in terms of local authority requirements.

The primary type of archaeological information required by councils is an accurate location and a description of the site. Unfortunately the current state of information is inadequate ‘existing data about sites is far from complete and [...] the lack of adequate data is frustrating all other protection programs’ (Derby 1999:24). Secondary information includes the significance values assigned to archaeological sites. Archaeological sites are assigned various values related to their ability to provide information, symbolic values, educational values or Maori values for example; ‘[w]hat is appropriate treatment for an archaeological site is not always appropriate when the site is of significance to Maori’ (PCE 1996a:63). Numerous problems are encountered with the significance values assigned to archaeological sites (for further discussion on significance values see Walton 1999).

Of relevance to the present study is the problem with assigning significance on a territorial basis. The PCE report (1996a: 87) stated that assigning different levels of significance (national/regional/local) ‘should guide the allocation of funding and responsibility for the maintenance of any site.’ According to Allen (1998:28) ‘[t]he legislation as originally proposed, assumed that historical importance can be converted into measures of national and regional significance’. Walton (1999:15) believes that ‘[f]ew terms have created more confusion than ‘local’, ‘regional’ and ‘national’ employed as levels of significance.’

Archaeological information varies widely in type and quality. The NZAA implemented the Site Recording Scheme in the 1950s in order to standardise methods of site recording in order that a coherent body of information could be collated. However,
'what data are collected and by what methods are influenced by every archaeologists sense of what is significant, which in turn reflects his or her theoretical presuppositions. This creates a reciprocal relationship between data collection and interpretation that leaves both open to social influences' (Trigger 1989:15-16).

Of particular importance today is the requirement for scheduling and protection of historic heritage to be

'at a level that is verifiable at an RMA plan review hearing and, if required, that could be sustained at the Environment Court. The information gathering requirements of s 32 and s 35 need considering when deciding upon the level of information needed at the identification phase and will be a component of the funding formula used to create such data bases' (Derby 1999:18).

4.2 New Zealand Archaeological Association Site File

The most comprehensive set of archaeological information for the country is the NZAA Site File. Information from the file can be obtained from district file keepers and the DOC. It is the official national inventory of sites in New Zealand and contains over 50,000 recorded sites. The NZAA Site File does not include any criteria for selection of archaeological sites, anything over 30 years of age is included in the file. However sites that can be legally classified under the HPA 1993 must be sites containing archaeological evidence of human activity prior to 1900 or be declared by the NZHPT on reasonable grounds to provide significant evidence relating to the historical and cultural heritage of New Zealand [s9(2)].

'The inventory of New Zealand’s archaeological resources [may be] large but contains records of variable quality and the geographical coverage is uneven' (Walton 1999:12).

The majority of the archaeological surveys from which the NZAA Site File was compiled were completed more than ten years ago. As a result the information is, in many cases, no longer accurate. This can often be attributed to conversion of imperial grid references to the
metric system. The conversion has often shifted grid references off the originally recorded position by up to several hundred metres. This has created a data set not suited to Geographical Information Systems (GIS) which overlay numerous data including topographical information, property boundaries and archaeological site locations based on grid reference information at a much more accurate level. Such an error can only be amended, and file updates completed by revisiting sites. However, this does not happen or a regular or structured basis. Meanwhile site locations are being included in district plans regardless of their accuracy. This can generate 'needless trouble and expense for landowners, and [...] ill-will towards archaeological objectives in general.' (Wilkes 1997:47). A much greater problem is 'when a site gets moved from one property to another, and the shift is only discovered after a landowner has been put to much expense and trouble in a planning consent or a HPA authority application' (Wilkes 1997:44). The current state of the NZAA Site File has important implications for local authority management of historic heritage as the source of their archaeological information is often from the NZAA.

An additional problem associated with the early archaeological records is that the NZAA Site File was not designed for the purpose of collecting information for inclusion in district or regional plans. Various problems are associated with this. For example grid references are only recorded to the nearest 100m when sites may be much smaller than this, alternatively they can cover several hundred metres with a grid reference taken from the centre of the site. These variables are difficult to incorporate into CINZAS and also GIS programs operated by councils. This leads into the debate of “lumping and splitting” for which there is no clear solution at present. Unreasonable expense would be incurred if every site was to be accurately surveyed, a difficult task when surface features are only indicators of the presence of an archaeological site rather than its extent. However, technological advances, geophysical surveying for example, may solve such problems in the future. A further issue associated with councils’ use of the NZAA Site File (and for the NZAA’s reputation) are landowners, who can remember archaeological surveys being carried out on their property for the purpose of information gathering, now having that information used by councils to restrict the use of their land.

Each recorded archaeological site has a completed site record form that may include site descriptions, maps, diagrams, artefact drawings and photographs. The quality of this information is inconsistent and some of it out of date. Table 4.1 illustrates the information councils can use and how it needs to be updated.
Table 4.1 Archaeological information available from the NZAA Site File and data fields that require updating for use by local authorities.

<table>
<thead>
<tr>
<th>DATA FIELD</th>
<th>NATURE OF INFORMATION</th>
<th>ISSUES FOR COUNCILS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grid Reference</td>
<td>Grid references are recorded to the nearest 100m. Few have GPS references. Many sites were recorded on imperial maps and have been converted to metric maps using a computer program.</td>
<td>As the information is often inaccurate grid references need to be checked and recorded using a GPS before the information can be included in local authority planning documents and records.</td>
</tr>
<tr>
<td>NZAA Site Number</td>
<td>Sites are assigned numbers using the metric map sheet number followed by a site number assigned by a district file keeper. This is a national file and these references are recognised by the NZAA, the DOC and the NZHPT.</td>
<td>Some local authorities have renumbered sites to correspond with their own planning maps. Problems can arise with cross-referencing of information and confusion between numbering systems.</td>
</tr>
<tr>
<td>Aid to Relocation</td>
<td>Often vague and out of date, this varies and is a subjective information field used as a back up to the grid reference.</td>
<td>Although not essential information for local authorities if GPS references are accurate, careful written detail is useful for the relocation and verification of sites.</td>
</tr>
<tr>
<td>Current condition/</td>
<td>Much of the information on archaeological sites was gathered more than ten years ago. It is likely to be out of date especially if the land use has undergone significant change since the site was recorded.</td>
<td>As no monitoring of sites has been conducted on a regular or structured basis, sites need to be revisited to assess current condition and threats. Monitoring needs to be completed on a regular basis and photographic references of sites should be created.</td>
</tr>
<tr>
<td>perceived threats</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Description</td>
<td>Site descriptions vary in quality. This data field is subjective. Information in this field may not be up to a standard acceptable under the RMA or the HPA 1993 processes.</td>
<td>Prior to an archaeological authority being granted by the NZHPT an updated assessment needs to be completed by a qualified archaeologist.</td>
</tr>
<tr>
<td>Landowner/tenant</td>
<td>Often out of date or not included on site record forms.</td>
<td>When grid references are correct this information can be updated from council records.</td>
</tr>
<tr>
<td>details</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Iwi/hapu</td>
<td>A category not included on original Site Record Forms. Information that is integral to the appropriate management and protection of Maori archaeological sites by local authorities.</td>
<td>As this information has not previously been systematically compiled, local authorities shall require this before the integration of archaeological information into planning documents and records.</td>
</tr>
</tbody>
</table>

Table 4.1 demonstrates the amount of work required before NZAA Site File information should be included in local authority records. The most significant data field that requires checking is the grid reference. To achieve this, the best source of information available at present is a GPS (Global Positioning System) grid reference accurate to within one to fifteen meters (with a standard hand held model of GPS), and a site visit. A fairly accurate grid reference can also be obtained if a site can be identified on recent aerial photographs. However, the extent of a site is difficult to determine using this method.
At present there is a cost-effective method of updating NZAA Site File information available to councils. This can be achieved through the NZAA Site Recording Scheme Upgrade Project designed for the purpose of updating archaeological information for use by local authorities. The aim of this project is not to gather new information but to correct information that is currently held in the NZAA Site File. Initially the Lottery Grants Board supported this project, but this funding has been reduced and the project now relies more heavily on councils to fund the project in their region or district. When approached by the NZAA 68% of the 85 councils approached (Chatham Islands Council was excluded) expressed support for the project, and 24% offered to assist the NZAA project with some funding (McGovern-Wilson pers.com. 24/5/1999).

The information recorded in this scheme is basically the same as that on the NZAA Site Record Forms with the addition of two extra fields to aid the protection and management of archaeological sites in the future. A standard site record form has been adapted to include the iwi or hapu if the site is of Maori origin. Secondly there is a field in which the recorder may enter recommendations for the future management of the site, for example site stabilisation, whether it should be fenced, or stock kept off the site. Particular importance is placed on obtaining correct grid references and determining landowners and managers on whose property the sites are located. Also important is the current condition of the site and the actual or potential threats to its integrity.

A further aim of the project is communication with property owners and tenants to make them aware of the location of archaeological sites and the value of protecting those sites. It also has the advantage of working with local iwi representatives to provide them with information and help them to identify sites if they are unfamiliar with doing so. This has the added advantage of encouraging a local population to develop an interest in the protection of these resources. Generally the aim is to increase public awareness of archaeology and the values associated with archaeological sites. This aspect appears to be successful. Walton (2001:202) reports a 50% increase in demand for information from the central file which ‘probably reflects increased general awareness of historic resource issues, particularly at the local body level’.

At present the project has been undertaken or initiated by Gisborne District Council, Canterbury Regional Council, Environment Bay of Plenty, Northland Regional and Kapiti District councils.

In regard to information on historic and cultural heritage the PCE report states (1996a:95) that ‘effective historic and cultural heritage protection depends heavily on the provision of high-
quality information and ongoing monitoring.' The report also recommends that the NZAA Site File should be officially considered a database of national significance to be eligible for funding from the Public Good Science Fund.

'Whether heritage is to be managed at local or national levels, the effectiveness of any system will depend substantially upon existing knowledge and informed prior advice – and therefore in general, upon the accuracy and availability of the NZAA file' (Barber 2000:34).

4.3 New Zealand Historic Places Trust Register

Another source of archaeological information available to local authorities is the NZHPT Register of historic sites, areas, wahi tapu and wahi tapu areas. Under the Historic Places Amendment Act 1975 the NZHPT was required to set up a Register, the functions of which are set out in section 22 of the HPA 1993. ‘Registration achieves no explicit protective classification, although it is intended to assist through the process of notification for certain statutory purposes’ (Challis 1995:180). Challis (1992:234) has also stated that the ‘effectiveness of registration as a site protection measure has never been formally evaluated.’ The first Register the NZHPT set up was a Register of archaeological sites. There were no criteria for categorising the archaeological sites that were registered. The aim of registration was to obtain a higher level of information on a site than information that existed within the NZAA Site File. According to Derby (1999:32) the present condition of many registered archaeological sites is unknown.

In 1980 the NZHPT began the Register of historic buildings. This Register required buildings to be classified under the categories A, B, C or D depending on their significance. At that time both the archaeological site and the historic building registers were separate. The Historic Places Act 1993 now requires the NZHPT to maintain a Register of historic places, historic areas, wahi tapu and wahi tapu areas. The 1993 Register assigns significance categories I and II. Archaeological sites can fit into either the historic category or the wahi tapu. If they are considered historic archaeological sites they will be classified into category I and II. Wahi tapu are not categorised. Both the archaeological site and the historic building Registers were combined in 1993 to fulfil this new mandate. The archaeological sites in the original Register have not been through any process of assigning significance. It was decided that it was too difficult to assign significance to archaeological sites so they all became category II sites (Mary O’Keeffe pers.com 11/7/00). Category I is reserved for sites of national significance, therefore none of the archaeological sites in the Register were considered to be of national significance.
Unfortunately the Register is inadequate in terms of its record of archaeological sites. At present there are six thousand registered sites in the country, and one thousand of these are archaeological sites (Elizabeth Cox pers.com 11/9/01). This means that only two percent of all recorded archaeological sites are registered by the NZHPT. This archaeological site figure however, does not include pre-1900 buildings, which are also recognised as archaeological sites under the HPA 1993. Allen (1998:31) believes that 'while the Register might be useful for some archaeological sites [...] unless they are designed to be truly comprehensive, register-type approaches do not easily accommodate archaeological sites' (Allen 1998:31).

The archaeological sites registered by the NZHPT are not the finest examples of archaeological sites in New Zealand. In addition 'the registration process is time consuming, in some cases costly, and creates the idea that non-registered items are less important’ (Derby 1999:37). Sections of the RMA requiring local authorities to have regard for the NZHPT Register are Regional Policy Statements [s61(2)(a)(iiia)], regional plans [s66(2)(c)(iiia)] and district plans [s74(2)(b)(iiia)]. Because of these provisions in the RMA, councils have been inclined to use Register information as the minimum requirement in their plans, the Queenstown Lakes District Council is one example (See Chapters Five and Six).

At present the NZHPT Register is undergoing an upgrade to gather more information on existing Register entries and to make the information easily accessible to the public. At present the information on archaeological sites in the Register is very basic, consisting of details on site type, description, NZAA number, grid references and local authority listing. The project aims to increase this information to include detail on the history of a site, its context and the importance of a place (Elizabeth Cox pers.com 11/9/01). The upgrade project aims to have the Register on the internet by February 2002 with the basic information on historic places being added to in a process that will take several years (Elizabeth Cox pers.com 11/9/01).

4.4 Other sources of archaeological information

There are alternative ways councils may obtain archaeological information. One is through Iwi Planning Documents or Iwi Resource Management Plans. However, such documents will not contain the full list of archaeological sites, non-Maori historic sites for example. At present few Iwi Planning Documents or Resource Management Plans have been completed. The extent to which archaeological information is included in iwi planning documents is not
analysed here as it is considered beyond the scope of this thesis. It would provide an interesting topic for further inquiry.

Another way for local authorities to obtain archaeological information is to commission an archaeological survey to be completed by a qualified archaeologist. Some local authorities have taken it upon themselves to compile archaeological information independently of the NZAA or the NZHPT. Napier City Council is one example. A problem with this approach is that the quality of archaeological or historic heritage consultants available is variable. At present there is no professional standard or minimum qualification required to carry out an archaeological survey or assessment. The quality of independent archaeologists has been considered a concern since the 1970s (Cassles 1976, Coster 1984). To compensate for this both INZA and the NZAA approved codes of ethics regarding archaeological practice. Nevertheless, there is currently no organisation monitoring professional performance or enforcing adherence to a code of ethics with regard to correct archaeological survey and assessment procedure. A suggestion to come out of the PCE Report (1996a) was that professional standards needed to be raised for effective heritage management. It also found that concerns had been expressed ‘about the quality of some advice received from independent consultants’ (PCE 1996a: 88). With regard to excavation, quality control is exercised by the NZHPT under the HPA 1993; section 18 requires the NZHPT to assess the competency of an archaeologist and approve them prior to the initiation of an archaeological investigation.

Reasons for the lack of professional standards may be attributed to the fact that in New Zealand a great deal of historic heritage protection work is done on a voluntary and community basis lacking professional advice and resources. The professional historic heritage sector is small and not widely recognised. According to Warren-Findley (2001:32) ‘[t]he love for the work has got New Zealand’s heritage a long way, but it has also seriously distorted the understanding within funding agencies of the true costs of human heritage management.’ The PCE (1996) report mentioned that the transfer of archaeological provisions to the RMA and the jurisdiction of local authorities would require, among other things, archaeologists working at council level.

**4.5 Summary**

This chapter has discussed the variety, variability and availability of accurate archaeological information. At present all sources of existing archaeological information require upgrading
before they can be utilised by local authorities. Much of the information on archaeological sites is subjective and geographical coverage is uneven. There are inconsistent levels of protection due to the fact that ‘agencies use many different heritage assessment approaches and criteria, and have widely variable quantities and quality of information on which to base assessment’ (PCE 1996a:95).

Both the NZAA Site File and the NZHPT Register are undergoing upgrades to improve the quality of information they currently hold. A primary issue facing archaeological resource management at present is the insufficient awareness of the NZAA as a source of archaeological information. This issue is amplified by local authorities’ perception that the NZHPT is the primary source of historic heritage information. An interpretation that stems from RMA emphasis on the NZHPT Register; the result being that local authorities believe they are fulfilling their functions under the RMA by recognising NZHPT Register items. This is discussed further in Chapters Five and Six which examine current local authority historic heritage management practice, the ways in which they have interpreted the legislation and the types of archaeological information they have included in their plans.
5.1 Introduction

Chapters One and Two identified the legislative mechanisms for the management and protection of historic heritage, with particular attention being given to archaeological heritage management. They demonstrated the devolution of decision making and the legislative provisions that have placed local authorities at the forefront of the present historic heritage management regime. Chapter Four detailed the types of archaeological information currently available for application by local authorities to aid them in the management and protection of archaeological resources. This chapter examines the ways local authorities interpret the legislation and how they fulfil their role as managers of historic heritage.

The first part of this chapter outlines previous studies aimed specifically at identifying methods local authorities use in the protection and management of historic heritage. This is followed by a description of the method employed in the present study. The second part of this chapter presents the results of a questionnaire survey directed at determining the role local authorities believe they play in the management and protection of historic heritage.

5.2 Previous studies

A number of articles and papers have dealt with historic heritage management and legislation in New Zealand, many of which have been referred to in the preceding chapters. Few studies have been specifically designed for analysing the responses of local authorities to historic heritage legislation. Three studies outlined in the following paragraphs involve surveys of local authority historic heritage protection mechanisms. They are detailed here as methods comparative to that employed to undertake the present research.

In 1979 Diana Neave (1981) conducted a survey for the NZHPT to determine the extent to which local authorities preserved historic heritage. In this study a questionnaire survey was sent to the 233 territorial authorities and Auckland Regional Authority. The objectives of the survey were to determine whether, under the Town and Country Planning Act, local authorities had introduced registers of historic items and ordinances into district schemes, and
the effectiveness of such provisions. The study also intended to ascertain the level of funding and incentive that councils had provided for the purchase and preservation of the historic items in council registers. Neave (1981) found that territorial authority registers varied throughout the country and within the council types, ‘they differed greatly in structure, number of items listed and the details provided about each item’ (p.9). Neave (p.16) also found that just under half of the local authorities had introduced a register into their schemes, and that the comprehensiveness of their registers was often related to the size and resource base of the authority. Some local authorities were aware that they lacked adequate knowledge of historical values (p.17). It was also clear that local authorities intended to identify and protect historic items by listing them in council registers. Financial assistance, often determined through categorising the items, was reserved for a select few items (p.15).

The other section of Neave’s (1981) study examined measures councils were taking to actively protect historic heritage. This was divided into two parts. The first identified how historic items were treated in scheme ordinances, the second at the financing of protection. The survey found that ‘over half the local authorities had enacted preservation ordinances’ (p.28). The survey also revealed that the majority of councils had used the model ordinance not as a guide to how they should address heritage in their locality but as an ordinance in the scheme, therefore local issues were not being addressed (p. 19-23). An important finding in relation to the present study was that only two councils made special provisions for archaeological sites and only one (Egmont County Council) protected archaeological sites whether they were registered or not (p.23). In terms of funding, only a few councils made any provision (p. 27). Twenty one percent provided finance for preservation; this included a variety of forms including rates remissions and subsidies. The majority of finance came in the form of one off payments (p.46). The study also found that few privately owned properties were assisted financially (p. 46). According to Neave (p.47) the main reason for this was the legislative restraints especially in the Municipal Corporations Act 1954, The Counties Act 1956 and the Rating Act 1967. Rather than providing finance a number of the councils provided services such as technical advice or supplied materials for general maintenance (p.57).

Woodward 1996, like Neave 1981, reviewed local authority measures to protect historic heritage in a paper prepared for the NZHPT. This study differs however as it was produced when the RMA was in operation. The report identifies the provisions in twenty-five local authority plans and other non-regulatory mechanisms used to protect heritage. To accomplish
this Woodward summarised the provisions in plans, consulted submissions made by the NZHPT in regard to plans, and consulted councils.

The study found that all twenty-four district and city councils and one unitary authority included a schedule of most of the heritage items registered by the NZHPT. However only some councils included archaeological sites in their schedules. In addition the study found that scheduling criteria and management approaches was variable between councils. In regard to archaeological sites the study highlighted the fact that 'there is a misinterpretation by some councils of the provisions of the Historic Places Act 1993 and the role of the Trust in respect of archaeological sites' (p.132). A finding with reference to archaeological heritage management was that 'a number of councils are not aware that because an archaeological site is registered by the NZHPT it does not necessarily imply that it has greater significance than a site recorded on the NZAA file system' (p.133). Woodward also found it apparent from plan provisions that a number of councils were not aware that some wahi tapu could also be archaeological sites (p.133). In addition the study found that a number of councils were reluctant to include archaeological information on maps because of a lack of adequate archaeological data. The majority of rules that applied to archaeological sites, applied only to those scheduled in the plan, and rules required a discretionary or non-complying consent.

A report was completed for the Ministry for the Environment (MfE) in 1997 as part of the Ministry’s duty to monitor the RMA. The purpose of the MfE report was to determine local authorities’ responses to historic and cultural heritage. This study analysed the historic heritage provisions of six Regional Policy Statements and fourteen district plans. Interestingly the study notes that few councils defined the terms “heritage” or “cultural heritage values” or “cultural resources” and that regional policy statements were more likely than district plans to contain such definitions (p.4). The majority of the twenty plans and policy statements included sections on “heritage”, however these often combined natural and cultural heritage. The report found that district plans, in comparison to regional plans and policy statements, were more likely to deal with cultural heritage separately. The study also discovered that ‘councils generally appear to be grappling with the conflict between the public benefit of protecting heritage versus potential private costs, by way of restrictions on landowners private property rights’ (p.4). As a result councils were making historic heritage related rules relatively permissive, discretionary activity status was the most commonly used heritage provision, and only two councils used prohibited activity status in relation to historic heritage. The study found that ‘the twenty plans and policy statements analysed used a large number
and variety of non-regulatory methods to achieve heritage protection’ (p.10). It also found that all district plans analysed included some form of heritage schedule and that the majority categorised the heritage according to significance. Regional Policy Statements did not contain schedules of heritage items. In terms of archaeological site protection only half of the district plans included rules relating to archaeological sites although this did not necessarily mean all archaeological sites. The majority of plans analysed in the study indicated the location of NZHPT registered archaeological sites on planning maps.

5.3 Survey of current practice

Method

Similar to the studies discussed above, the aim of this thesis is to determine the present level of historic heritage management protection offered by local authorities. Of particular relevance to this study is the management and protection mechanisms for archaeological sites.

The research strategy for this project was divided into two sections. The first involved an analysis of the role local authorities believe they are playing in historic heritage management. This was achieved by developing a questionnaire survey to be sent to all local authorities in the country. The objective of the questionnaire survey was to obtain information on the perceptions and operation of the local authorities in relation to historic heritage management. The questionnaire survey was sent in March 1999 to all eighty-three of these bodies. A letter detailing the objectives of the study accompanied the questionnaire. Local authorities were given three months to respond to the survey. The questionnaire was designed to draw out impressions of, and answers to the following list of six topics:

1. What local authorities perceived their role in historic heritage management to be and how they were achieving this
2. Sources of archaeological data used in the development of the plans and policy statements
3. Councils’ relationships with other organisations involved in historic heritage management
4. In what form archaeological information is held by councils and how such information is included and presented in plans
5. Councils’ impressions of public attitudes toward historic heritage and councils’ policies on compensation

6. Attitudes toward current legislation and the proposed changes to the legislation suggested by the historic heritage management review (PCE 1996a, DOC 1998a).

It was necessary to design a questionnaire that would answer these questions while remaining concise enough to encourage a response. The questionnaire contained fourteen questions (Appendix One), the majority of which required a short answer. Space was provided to invite respondents to add additional comments with regard to questions.

In addition to the questionnaire survey, planners from seven councils were interviewed as a follow up. These were Queenstown Lakes District Council, Otago Regional Council, Napier City Council, Central Hawke’s Bay District Council, Nelson City Council, Tasman District Council, and the Auckland Regional Council.

Follow up interview questions were developed on a case by case basis that was dependent on prior knowledge of individual councils and their responses to the questionnaire survey. The aim was to develop an understanding of local issues in historic heritage management and planning, to aid the selection of case study councils to fulfil the second part of the present research strategy.

The second section (results of which are presented in Chapter Six) comprises of case studies of two selected councils, Queenstown Lakes District Council and Tasman District Council. The objective was to develop an understanding of the operation of both councils and their implementation of historic heritage management and protection mechanisms. To achieve this, relevant sections of proposed district plans were assessed. Following the initial assessment of historic heritage management in each district, structured interviews were conducted with individuals who had applied for archaeological authorities under section 11 or 12 of the HPA 1993. In each district a selection of individuals who represented interest groups were also interviewed in this way. In addition, resource management policy planners employed in both district councils were consulted.

The results presented below are a culmination of responses received from the questionnaire survey. Due to the nature of questions asked in the survey a combination of both qualitative and quantitative methods were used to analyse the results. Responses to every question were quantified to some extent. Comments made in addition to direct answers were treated as
qualitative information, a representative sample of which have been included in the following breakdown of the questionnaire results as items quoted. Due to the confidentiality of the questionnaire these have been quoted anonymously.

Regional council replies are separated from those of district, city and unitary authorities due to the differing nature of their functions under the RMA. Unitary authority responses are included with those of the territorial authorities rather than those of the regional councils. Historic heritage management functions of unitary councils were deemed more analogous to territorial authority functions than regional council functions, although they perform the role of both levels of governance.

Limitations of the method

The quantification of the bulk of the information has meant that local issues have not been addressed in this section although many respondents referred to specific examples when reinforcing their answers to various questions.

It was difficult to determine the knowledge and expertise of those responding to the questionnaire survey with regard to historic heritage management. For example Woodward’s (1996) study highlighted the fact that a number of councils were not aware that wahi tapu could also be archaeological sites. Respondents who failed to answer some of the survey questions limited the interpretation of results.

Results of questionnaire survey

Figure 5.1 illustrates current political boundaries as set up under the Local Government Amendment Act 1989. There are seventy-four territorial and unitary authorities, and twelve regional councils. Highlighted are those authorities that responded to the questionnaire survey.

As can be visualised the distribution of responses encompasses the whole country. The only region from which no response was received was the territorial authorities within the Taranaki region. Of the fifteen city councils seven responded to the questionnaire. Out of fifty-five district councils thirty-one replied. All four unitary councils responded, as did nine of the twelve regional councils. Responses were received from all regional councils of the South Island, three regional councils of the North Island failed to reply. The Chatham Islands Council did not respond to the questionnaire.
Territorial and unitary councils

A total of 42 (57%) of the 74 territorial and unitary authorities who received a questionnaire replied. In one of these cases the survey was sent back with a letter attached explaining why the council would not complete such surveys. 14% of respondents attached relevant parts of their plans and 11% included their submissions on the Historic Heritage Management Review Paper for Public Discussion (DOC 1998a).
the council would not complete such surveys. 14% of respondents attached relevant parts of their plans and 11% included their submissions on the Historic Heritage Management Review Paper for Public Discussion (DOC 1998a).

In answer to the question on the role they believed their council played in the protection and management of historic heritage 83% of respondents said the council had a function under the RMA. In addition a variety of other functions were mentioned. These included being an owner of heritage, an educator and steward. It is interesting to note that 17% did not specify the requirement under the RMA. Whether they had not interpreted the Act this way or simply failed to mention it cannot be determined.

The number of archaeological sites included in proposed district plans differed greatly throughout the councils who responded to the questionnaire. Some councils had gone as far as including all NZAA recorded archaeological sites in their plans. At the other end of the scale, others had incorporated only those archaeological sites registered by the NZHPT. Five (12%) did not include archaeological sites in their plans. Six percent did not provide information so it cannot be determined whether or not they included archaeological sites in plans. Figure 5.2 demonstrates the number of archaeological sites compared with the frequency at which councils include as many archaeological sites in district plans.

![Figure 5.2: Number of archaeological sites included in respondent territorial and unitary authority plans.](image)

It is evident from Figure 5.2 that the majority of councils had between zero and two hundred archaeological sites included in their proposed plans. Twenty-one percent contained over two hundred sites in their plans. Gisborne District Council, a unitary authority, was the only
responding council to include more than one thousand sites in its plan. Reasons why five councils had no archaeological sites listed include the following:

- ‘NZHPT sites are registered on LIMs’
- ‘None were included due to cultural sensitivity’
- ‘There is no statutory basis for the inclusion of archaeological sites. This is controlled by the NZHPT’

On sources of archaeological information 52% had been supplied with all or part of their archaeological information by the NZHPT, and 31% had received all or part of their information from the NZAA (see Table 5.1). Other sources of information cited were the DOC and iwi. Of the 42 respondents 5 (12%) had received no information on archaeological sites to include in their proposed plans. It appears from the questionnaire results that the majority of councils believe the NZHPT to be the leading historic heritage protection agency. In response to the number of archaeological sites included in its proposed plan one council answered ‘none except for wahi tapu. The council didn’t want to double up on the HPA.’

In terms of wahi tapu 48% of the councils had received their information from local iwi. On the other hand 48% of the councils who responded had no information on wahi tapu at all. Other sources of information on wahi tapu to be mentioned by respondents included the NZHPT, NZAA, DOC and in one example, books.

Table 5.1: Sources of archaeological information used by respondents in the development of proposed district plans.

<table>
<thead>
<tr>
<th>Source</th>
<th>Number of respondents</th>
<th>Percentage of total respondents</th>
</tr>
</thead>
<tbody>
<tr>
<td>NZHPT</td>
<td>22</td>
<td>52%</td>
</tr>
<tr>
<td>NZAA</td>
<td>13</td>
<td>31%</td>
</tr>
<tr>
<td>DOC</td>
<td>4</td>
<td>10%</td>
</tr>
<tr>
<td>Iwi</td>
<td>3</td>
<td>7%</td>
</tr>
<tr>
<td>Old Plans</td>
<td>1</td>
<td>2%</td>
</tr>
<tr>
<td>Other</td>
<td>3</td>
<td>7%</td>
</tr>
<tr>
<td>No information</td>
<td>5</td>
<td>12%</td>
</tr>
</tbody>
</table>

In response to the question on councils relationships with other historic heritage organisations 55% expressed a positive relationship with the NZHPT. Five percent had encountered a negative experience, one response was that ‘most heritage in the district is not of national scale, therefore the Trust are not interested’. Thirty three percent of respondents had a positive relationship with the NZAA, however 45% of councils who replied said they had no contact
historic heritage in their district. However, it is significant to note that the majority has some form of GIS (Geographical Information System) incorporating historic heritage data.

![Figure 5.3: Councils methods of storing and presenting archaeological information.](image)

In answering questions on public participation and public input into the development of the plan 76% of councils who responded had received submissions from members of the public regarding historic heritage components of proposed plans. In terms of public access 88% said that the public had easy access to information on heritage in their district. In other cases the public had to pay for that information.

Many respondents expressed concern over the lack of incentives to protect historic heritage;

"there is a need for an emphasis on encouraging the value of protecting, to give incentives to the public rather than regulating them to avoid discussing issues with the council. These are functions of attitude not legislation'.

It was also perceived that the legislation was not strong enough to allow mechanisms/incentives for protection.

"There are not incentives to protect, there are disincentives. It turns assets into liabilities. People don’t approach local authorities for assistance because they are scared that they will lose “rights” to use land or buildings. Local government should be encouraging people to come forward by giving assistance and information to help assure an item’s protection without imposing "costs" on landowners.'

Others perceived reluctance at the political level to use the strength of the legislation,

"often it is the local community which is required to pay the costs of protection therefore they develop a negative attitude towards protection.'
Figure 5.4: Percent of councils offering compensation for landowners adversely affected by archaeology.

The questionnaire asked if councils had any form of compensation for property owners who were adversely affected by having an archaeological site on their property. As illustrated in Figure 5.4, 80% of the councils do not compensate. Compensation was provided by three of the councils. Others were either considering the options or indirectly compensating property owners through rates relief or similar mechanisms or incentives.

When asked if they believed the current legislation was adequate, 40% of district, city and unitary council respondents considered that current statutes provided adequate protection for historic heritage. One response was that 'its [the problems related to heritage protection] in the practicalities of implementation, not the Acts themselves'. Thirty eight percent believed the current system to be inadequate and 21% gave no response to this question.

Respondents provided few examples of strengths in the current legislative regime. Positive aspects mentioned included the fact that the statutes created a mandate to protect. Another strength noted was that devolution of protection responsibilities promoted greater community interest in historic heritage. A further respondent mentioned that under the current system there is a body of expert knowledge, that is, the NZHPT.

In comparison with the strengths cited, respondents offered a considerably greater list of weaknesses. Seventeen percent complained of either the disparity or duplication between the HPA 1993 and the RMA. A further problem mentioned was the lack of co-ordination between historic heritage management agencies and the blurred role of regional and territorial authorities in terms of their historic heritage management responsibilities. The councils were
In comparison with the strengths cited, respondents offered a considerably greater list of weaknesses. Seventeen percent complained of either the disparity or duplication between the HPA 1993 and the RMA. A further problem mentioned was the lack of co-ordination between historic heritage management agencies and the blurred role of regional and territorial authorities in terms of their historic heritage management responsibilities. The councils were divided on whether they thought there were too many historic heritage organisations operating in the present system; 40% believed there to be too many, another 40% did not agree, the remainder were uncertain.

Other perceived weaknesses mentioned by respondents include the inadequacy of the current definition of an archaeological site. Also reported was a scarcity of mandate other than in Section 6(e) for archaeological site protection. One respondent believed that, at present, there was ‘no statutory basis to include archaeological sites in district plans’. It was also mentioned that the Acts do not address the issue of silent files. Nor does legislation allow for funding compensation. Many respondents mentioned that insufficient funding is especially difficult for the smaller territorial authorities. One response was that

‘the onus is put on local authorities to protect heritage items when there is little interest or money in councils. Councils can only provide a certain level of protection and it is up to them to set that level’.

Others expressed concern over private property rights;

‘the current legislation requires the co-operation of the landowners and as most sites are on private property, private property rights predominate’.

Another apparent problem is that the Acts are not well understood by the public. In addition there was respondent demand for guidelines on ways councils should approach historic heritage management issues. One respondent mentioned that

‘at present there is no effective local administration, inadequate knowledge of site values and risks and no recognition of the difficulties of dealing with the effects of development on unknown or undisclosed archaeological sites’.

Another respondent expressed the need for

‘establishing across New Zealand consistent standards of site protection’.

When asked to comment on the greater role local bodies would have to play if the proposed changes to the RMA and HPA 1993 eventuated (most notably the archaeological provisions being shifted from the HPA 1993 to the RMA), 21% supported the proposed changes. Twenty-nine percent expressed a negative opinion and 31% of the respondents were
indifferent to the proposal. A few of the responses reflecting many of the councils’ views are as follows:

‘The Government’s proposal is a cop out’,

‘Typical shunting of responsibility down without resources. Trying to make the RMA do a protection role demanded by public when its fundamental purpose is something else. Poor performance of a crown agency is blamed on the law, it couldn’t be more wrong!’

‘Too many people with gilded views of rights and responsibilities.’

A variety of concerns about the proposed changes were expressed. Seventy four percent expressed concern over issues of funding and compensation should local authorities have a greater role in historic heritage management. One response was that

‘heritage protection has nothing to do with legislation, the main issue is funding’

Another stated;

‘it is necessary for legislation to reflect financial means by which policies will be implemented’.

Other concerns were expressed over the deficiency of resources including technical support and expertise at a local level. Seventeen percent questioned the Government’s commitment to heritage protection. The following statement reflects many of the respondents’ views that the proposed changes are ‘predictable and in line with devolution of “Non Core” functions to local government’. A couple of respondents mentioned that local bodies were not the treaty partners. They felt therefore that they were not the ones responsible for addressing issues of the Crown.

Others believed the proposed changes would result in greater inconsistency in how historic heritage would be managed if left up to local authorities. There was also a general perception that councils have insufficient incentive to protect. Many mentioned that smaller councils would be more adversely affected by proposals due to smaller rates bases. Additionally, the size of a council is not proportional to the number of historic heritage sites in its district. Also mentioned was the fact that rate reductions for national heritage should not be imposed on local authorities. One respondent said ‘local communities should not be required to pay for national heritage, that is a taxpayer responsibility’. Items of national historic heritage significance, like the number of sites in any district, are disproportional to rate bases. Another mentioned that as ‘communities are not prepared to financially assist with protection of heritage councils generally give such matters low priority’. 

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There were a number of concerns about the quality and reliability of archaeological data. Comments from respondents referring to the NZHPT Register included:

‘The register was woefully inadequate’

and

‘classifications were a joke, had a complete lack of factual analysis. Very poor information’.

Regional council results

The questionnaire received an excellent response from regional councils. Seventy-five percent, nine of the twelve regional councils, replied. However, one of the respondents did not answer the questionnaire, and instead wrote to say that their council did not have any involvement in historic heritage management. As the number of regional councils is diminutive, actual numbers responding are cited rather than percentages as applied to the territorial and unitary authority analysis above.

In response to being questioned on the regional council’s role in historic heritage management six responded that they had a function to manage historic heritage under the RMA. Other functions respondents listed included the role as an owner of heritage another response was as an educator. Two of the councils responded that they were not managers of historic heritage. One respondent mentioned:

‘Although there are objectives and policies in the regional policy statement for the protection of heritage, in most circumstances it must rely on district plans to give effect to these objectives and policies.’

Like territorial and unitary councils, the majority of regional councils had received their information on archaeological sites from the NZHPT and/or the NZAA. Six of the responding councils had received their information on wahi tapu from iwi.

The majority of regional councils were reported to have a positive relationship with the NZHPT, the NZAA, the DOC and iwi and many had received some assistance from these organisations in the development of the historic heritage component of their regional plans. Three of the respondents’ councils had no relationship with the NZAA.

In terms of the sources and types of information held by councils, two respondents’ councils used GIS as their source of and storage facility for archaeological information, two used a combination of GIS and maps, two used lists and maps and three held no record of archaeological sites at all. In response to the question on whether the public had access to
historic heritage information held by their regional council five responded that the public had easy access to the information held within the council. One respondent wrote:

'As far as I know there have been no public requests for such information. People tend to go first to the territorial local authorities or specific organisations such as the NZHPT.'

Seven respondents’ councils had received some input from the public in the development of the historic heritage provisions in Regional Policy Statements and plans.

In response to the question on the adequacy of current legislation all eight of those who made a written response to the questionnaire believed that the current legislation for the protection and management of historic heritage resources was inadequate. This result makes an interesting comparison with the territorial and unitary authorities’ responses, only 38% of which thought the current legislation was inadequate. The main weaknesses identified by those who responded from the Regional Councils were the overlapping of functions between heritage management agencies and the duplication of legislation,

'these organisations (DOC, NZHPT, Councils) to a great extent have duplicated roles but different aims dictated by legislation. It is about time one organisation was given the job to do properly rather than fragmented and working at cross purposes with each other'.

Further concerns expressed by respondents included inadequate national co-ordination, the apparent deficit in historic heritage focus and the fact that listing heritage items in plans does not ensure protection of sites. One respondent to this question stated that:

'The RMA does not adequately cater for the protection of heritage. If you are a developer and you have lots of money and good lawyers you can get away with anything.'

In response to the question on whether they believed that too many organisations were responsible for the management and protection of historic heritage, there was a fifty-fifty split in responses. A number of the respondents were of the opinion that the greater the number of organisations involved the more effective the system could be. One response was:

'in some ways if there were more advocates for heritage more resources might get generated, and more dollars are the key to effective management'

Another response stated that

'there are not necessarily too many, but wrongly constituted and deployed.'

Five respondents indicated a positive response to the proposed changes in the legislation and the greater responsibility this would generate at the local authority level. None of the respondents expressed a negative attitude to the proposed changes. However, similar to territorial and unitary authority responses, concerns were expressed in regard to issues of
funding, expertise, lack of government commitment and insufficient resources at the local
level,

‘with the proposal to remove 1900 as the cut off date for archaeological sites, there will be a
need for some other simple basis for lay people to assess the possibility that a site may have
archaeological significance. A set of simply-worded guidelines perhaps.’

One council responded that a clear distinction would need to be made between the role of
regional councils and that of territorial authorities, ‘a regional overview/co-ordination may be
the best approach’. Another responded that ‘core functions need clarification and a single lead
agency is needed.’

5.4 Discussion

It can be argued that the changes to the law over the past two decades have achieved certain
positive results with regard to historic heritage management. The majority of councils who
responded to the questionnaire acknowledge that local authorities have a statutory
requirement to manage and protect historic heritage under the RMA. Unlike Neave’s (1981)
study in which under half of the councils purported to have schedules of historic heritage
items, only two making provision for archaeological sites, most councils in Woodward’s
(1996), the MfE (1997) and the present study, have included a schedule of historic heritage
items and made some provision for their management and protection.

This study has emphasised the incongruous response of local authorities to archaeological site
protection and management. The MfE (1997) report observed that half of the councils analysed made provision for archaeological sites. The present study found that the majority of
councils have recognised archaeological sites as a heritage resource and included some
archaeological sites in schedules to their plans. However, this study similar to Woodward’s
(1996) highlights the misinterpretation by councils of their role and that of the NZHPT with
regard to archaeological site management. Local authorities have been slower to make
provision for archaeological sites than other heritage due to a lack of clear mandate for
including non-NZHPT registered archaeological sites. At present many councils do not
acknowledge archaeological sites unless they are registered by the NZHPT. Many remain
oblivious to the fact that NZHPT registered archaeological sites may not be of greater
significance or more representative than sites in the NZAA Site File. Local authorities are
limiting themselves in the types and sources of archaeological data they acquire, they are
failing to utilise the variety of archaeological information sources currently available. For
example only seven percent of responding territorial and unitary authorities obtained archaeological information from iwi.

Changes to legislation appear to have provided historic heritage with a higher profile in a resource management capacity. In many respects however, such changes have failed to alleviate other historic heritage management deficiencies. In 1981 Neave found inconsistency in the way historic heritage was being managed. Woodward (1996) also found great variation in historic heritage management techniques. The present study demonstrates inconsistent data gathering, inconsistent listing of historic heritage items and inconsistent storing of data as characteristic of the current practice of historic heritage management by local authorities. Disparity therefore, continues to be inherent despite the legislative framework having undergone substantial change in the past two decades. It may be surmised that nation-wide consistency will not be achieved without national standards, policy or guidance.

Levels of protection have further to progress before they can be considered adequate. This is particularly true for archaeological site protection. Rules in plans are relatively permissive, damage or destruction requires a resource consent, but landowners are not often prohibited from these activities (MfE 1997). Rules give effect to listings in plans, therefore to prevent the destruction of historic heritage resources such rules require strengthening. The RMA can be described as enabling, individuals are allowed to utilise their property with few constraining conditions. Society presently views such restrictions as an encroachment on private property rights.

Comparable to Woodward’s (1996) paper, this study has found councils sceptical of the quality of archaeological data available at present. The present study demonstrates that local authorities perceive the NZHPT to play the lead role in historic heritage management, it also illustrates the implications this has for local authority management of historic heritage resources. Additionally the results reveal that a high proportion of local authorities have no knowledge or relationship with the NZAA. This is progressively improving due to the higher profile the NZAA is generating with the Site Recording Scheme Upgrade Project. Many respondents to the questionnaire complained about the unstructured nature of the historic heritage industry. Their primary concerns were the lack of a central agency and the absence of any directions, standards or guidelines which local authorities could apply to historic heritage management. This result is reiterated in the two case study districts detailed in Chapter Six.
Public interest in the management and protection of historic heritage is clearly evident in the results presented here, seventy-six percent of territorial authorities and seventy-eight percent of regional councils had public input on the historic heritage component of their plan. However it is highly likely that this result reflects negative attitudes toward heritage provisions as much as it demonstrates positive public input into a plan. In an analysis of submissions on heritage provisions of two local authority plans Mosley (1999:97) found, in general ‘submissions were negative and phrased in reaction against the heritage provisions in the district plans’. The results of this study found that the public has appropriate access to local authority information on historic heritage within their district. However, as one respondent pointed out the public is more likely to approach organisations, primarily the NZHPT for information.

The majority of questionnaire respondents expressed concern over issues of funding. At present only twenty percent were considering or compensating landowners. This result is comparable to a finding by Neave (1981) twenty years ago. Funding for the protection and preservation of historic heritage is an issue that requires urgent attention. A contestable national historic heritage fund was one of the proposals of the Historic Heritage Management Review (DOC 1998c) to gain support from those who submitted on the review. However advantageous a fund would be it does not address issues of local authority protection of the majority of historic heritage resources, the category into which numerous archaeological sites would fall, in any one district. Neave’s (1981) study identified that comprehensiveness of schedules of historic heritage was comparative to council size and resource base. Many respondents to the present survey were concerned by the burden of historic heritage management on smaller local authorities with weaker rates bases. The result is nation-wide variation in historic heritage management practice and inconsistency in the types of historic heritage preserved.

The Government’s proposal to give greater responsibility for historic heritage management to local authorities is a serious concern. Devolution of responsibility may be achieving decision making at a community level. However, as far as historic heritage is concerned there is adequate reason to maintain and strengthen a single central agency with statutory provision for the management and protection of historic heritage. The fact that five (7%) territorial authorities do not acknowledge the requirement to include archaeological sites in district plans demonstrates that there is clearly a need for educating and legislating. The results demonstrate that local authorities seek national guidance and co-ordination and are, at present,
reliant on the NZHPT as their primary source of historic heritage information and advice. Historic heritage knowledge and technical expertise are not well developed at a local level; this result reflects a concern many questionnaire respondents expressed. The following chapter provides further insight into the historic heritage management practice of local authorities through the analysis of the role two councils are playing, and how this role is perceived by developers and historic heritage interest group representatives.
CHAPTER 6  CASE STUDIES OF CURRENT PRACTICE BY LOCAL AUTHORITIES

6.1 Introduction

The following chapter presents the results of case studies conducted in the Queenstown Lakes District and the Tasman District. Case studies were conducted by presenting a number of interviewees with a structured set of interview questions (Appendix Two). Structured interview questions were formed into two groups; the first type was designed for individuals who had applied for an archaeological authority under section 11 or 12 of the HPA 1993, the interviewees in this category were termed ‘developers’. The aim of the interviews designed for authority applicants was to determine user experience and perceptions of the current archaeological authority application process and their impressions of the role the council played in this process. The second structured interview type was designed for people deemed to represent an affected party or interest group. These included; historical society members, Historic Places Trust members and staff, the DOC staff, iwi representatives and museum staff. The interviews of interest groups were aimed at gaining people’s impressions of the way archaeological sites and heritage issues are being addressed in each district and how they believed the situation could be improved. Both sets of interview questions included five additional questions designed to determine individual attitudes to and knowledge of archaeology and historic heritage management. The inclusion of these questions had a secondary purpose, which was to reveal some of the current local issues in each district.

In addition to the structured interviews a number of unstructured interviews were conducted with planners working in both the Queenstown Lakes and the Tasman District. These interviews were designed for each council to accommodate district issues and positions held by those interviewed.

In order to obtain information on individuals to interview under the ‘developer’ category, a list of the applications for archaeological authorities was obtained from the NZHPT. The list included all applications lodged over the period of January 1996 to August 2000, in both Queenstown Lakes District and the Tasman District. In this period there were eleven archaeological authorities applied for in the Queenstown Lakes District and twenty-five in the Tasman District. An interesting aspect to mention with regard to the authority applicants in
the Tasman District is that ten of the twenty-five had been lodged by either the DOC, the TDC or an archaeologist, all of whom did not fit the developer category.

Several difficulties were encountered in trying to gather potential interviewees using this method. Firstly the researcher had more difficulty persuading developers to participate than interest group members. It also became evident that individuals who had applied for an authority two or more years ago had difficulty remembering the process. In addition it was harder to locate individuals who had applied for authorities three to five years ago as they often had new phone numbers, new jobs or had relocated. The result was that out of the potential eleven interviewees in Queenstown and fifteen in Tasman four interviews were conducted with applicants in each district, all of whom had lodged their authority application since 1998. To keep interviewee numbers comparable five individuals from each district were contacted to make up the ‘interest group’ sample. The following section details the responses of eighteen individuals who participated in the structured interviews and four planners who answered unstructured interview questions.

6.2 Case study 1: Queenstown Lakes District

Queenstown Lakes District is an interesting case to study for a number of reasons. It was selected as a case study on account of the fact that the area has one of the fastest rates of growth in New Zealand, and because the Queenstown Lakes District Council has a reputation for a ‘development at all costs’ attitude. In 1998 the Queenstown Lakes District Council (QLDC) contracted out the planning and resource consent processing side of its functions to a company called Civic Corp which produced the Proposed District Plan 1998.

The number of recorded archaeological sites available from CINZAS in 1999 for inclusion in the QLDC Plan was 675. Seventy-two (11%) were in the prehistoric/Maori category and 603 (89%) were recorded as historical sites. The file has increased by 7% in the past three years, and now the number of sites recorded in the district is 725, seventy-two prehistoric/Maori and 653 historical.

Between 1997 and 2001 a number of important archaeological investigations were undertaken, and three of these occurred in the centre of the town. This had the advantage of creating a significant amount of public interest and awareness, and received a substantial amount of newspaper coverage (See Appendix Three). Archaeological investigations of primary significance in the past four years were the Victoria Flats Sanitary Landfill excavated
in 1997 by Peter Petchey, the Church Street car park development excavated in 1999 by Dr Jill Hamel, the Beach Street development and the Eichardts Hotel both excavated by Peter Petchey in 2000. Interviews were conducted with the developers of each of these sites.

QLDC District Plan provisions

Section 13 of the QLDC Proposed District Plan is dedicated to heritage. Heritage is defined in the plan as

'a composition of the natural, physical and cultural elements of the environment [...] Heritage as opposed to historic implies an understanding of the built and natural environments. Heritage signals something handed down from the past; it implies a duty of care and responsibility to pass it on, intact, to future generations. The heritage resource is a combination of features which form part of the environment. It creates a special character, enhancing the amenity providing economic opportunity. Heritage features include [...] the landscape within which settlement and development has occurred including archaeological sites' (13.1.1).

Section 13.1.2 covers the issues associated with historic heritage. Civic Corp acknowledges that the HPA 1993 does not provide any specific protection for historic heritage resources other than archaeological sites, and therefore Civic Corp maintains that it must provide protection through the District Plan.

Section 13.1.3 lists the objectives and policies of the QLDC with regard to historic heritage. In order to preserve the character and history of the district Policy 1.3 is to identify wahi tapu sites and areas and recorded archaeological sites that are known to exist. To implement the policies the proposed district plan includes an inventory (with significance assigned by planners). There are three categories (1, 2 and 3) into which historic heritage is classified by Civic Corp. Wahi tapu, wahi tapu areas and archaeological sites are not categorised due to the 'nature of these particular heritage resources'. There are thirteen archaeological sites included in Appendix 3: Inventory of Protected Features attached to the Plan. They are all NZHPT registered Category II sites. And in addition, archaeological sites have been categorised by the QLDC into categories 1, 2 and 3. All the archaeological sites are categorised 2 except for one in Category 3.

According to the proposed plan the council is required to consider alternative uses for heritage to enable preservation. It is also required to consider financial incentives and to use heritage orders where necessary. Additionally the council is to liaise with the NZHPT, the NZAA and tangata whenua and promote greater public awareness of heritage values. The proposed plan also mentions that the NZAA site file will be incorporated in the Council’s GIS.
Civic Corp believes that ‘[p]ublic education, incentives and rules in the Plan are seen as the best options for encouraging public maintenance of heritage resources’. Section 13.2 includes rules regarding historic heritage. Prohibited activities (13.2.3.4) include any demolition of a building, memorial, feature, structure or precinct listed in and identified as Category 1 (no archaeological sites are Category 1 heritage items). Non-complying activities include any demolition of a building, memorial, feature, structure or precinct listed in and identified as Category 2. Discretionary activities include any alteration to a building, memorial, feature, structure or precinct listed in and identified as Category 2 or any demolition of the above in Category 3. Any non-complying and discretionary activities require a resource consent.

In considering whether to grant consent or impose conditions the Council shall have regard to, but not be limited by a variety of assessment matters including the conservation principles of the ICOMOS New Zealand Charter (13.3.2).

Issues raised by interest groups

In terms of the role the Council played in historic heritage management the general consensus of interest group interviewees was that the Council does very little to protect historic heritage. Reasons cited include; ‘heritage protection requires the right people on Council’ and that the ‘QLDC has a short institutional memory.’ Most believed that Civic Corp were trying but they required historic heritage management expertise at a local level. Interviewees responded that they were fairly happy with heritage provisions in the Proposed District Plan, however they felt there was insufficient implementation of them:

‘pressure on development means that a lot of resource consents are non-notified. People go ahead and develop and apply for consents later, there is a lot of non-notification, cost saving, time saving, heaps of consents are going through like this’.

An interviewee also expressed concern over ‘fake’ heritage; buildings that are designed to look historic but built with modern materials, saying that it was ‘hard to avoid fake heritage because people simply don’t understand the value of a heritage item.’ In Queenstown an example is Archer’s cottage, it was one of the oldest buildings on the town’s waterfront, located beside the cottage of William Rees who founded Queenstown. Developers demolished the original cottage and built a replica in its place. Ironically, in an interview, the developer said ‘it will last two hundred years now, a lot longer than William’s cottage next door’.

Interest group representatives believed that if developers were made aware of the need for archaeological assessments and authorities from the NZHPT, and took these steps at an early
stage they could help themselves, 'at the moment they have to be forced to acknowledge it, and they complain.' This, however, should improve over time when archaeological assessments becomes more of a standard development criteria and process. According to one interviewee historic heritage matters and development in Queenstown have only really become an issue in the last year [1999-2000].

Queenstown has a number of groups who have an interest in protecting historic heritage; these include the Arrowtown Heritage Advisory Group, Queenstown Heritage Trust, The Historical Society and a local branch of the NZHPT. The Historical Society in the Queenstown Lakes District is one of the largest in the country with around five hundred members. One interviewee said 'the NZHPT and the historical societies act as watchdogs, they have to make sure the Council protects heritage, the law doesn't protect it.' However interviewees felt that the Council had no appreciation or respect for the groups who are trying to protect heritage 'we need consulting and acknowledging.' It was also mentioned that there was a lack of communication between heritage protection agencies in the area.

The majority of individuals interviewed believed that there was insufficient positive publicity of archaeological matters in the Queenstown area, there was a feeling that the general public were ignorant or left in the dark. One reason for this is that information on archaeological investigations has not been produced promptly. By the time reports were released the public had forgotten about the site and this, in turn, has heightened the public perception that the recently excavated archaeological sites were not important. This perception has been augmented by some of the media coverage surrounding the Beach Street and Church Street developments. One interviewee said:

'The public believes the car park site was not a very good site because the mayor was quoted in the paper as saying only a shoe and some bottles came out of it.'

Another believed that

'if the public do not think it is important they will not support it, we need to get the information back out there and fast, before people go cold'.

It was generally accepted that archaeology was not valued because the community was left in the dark,

'Council opinions won't change unless the public changes, if the public don't know anything they won't change.'

An additional concern mentioned was that the
'Council/public is unaware of the value history and archaeology can add to tourism. The area is promoted as the adventure capital. It does not cater to tourists who are not interested in the action capital of the world. What do these tourists do? Many groups of mature tourists come through the region and are interested in passive tourism, if we have nothing of our history left to show them that’s pathetic'.

Issues raised by developers

The developers interviewed in the Queenstown Lakes District all accepted that archaeological investigations were necessary. However, the majority expressed some concern over the cost of archaeological investigations. For example, one developer said that

‘There is no accountability on the part of the archaeologist. They could go on forever digging holes and the developer has no control or knowledge of how long. Who are the archaeologists accountable to?’

Others offered the following:

‘Developers have no rights under the [HPA 1993] Act. It is a risk. Archaeology could go on forever.’

‘If someone from the archaeological side had to pay say 25% of the costs of an investigation this would make the archaeologist accountable.’

‘There needs to be a natural interest on the part of the NZHPT etc to ensure costs do not exceed benefits, if NZHPT had to pay they’d seriously consider what they dig up, someone on that side of the fence should pay.’

These type of complaints appear to be symptomatic of the fact that developers in Queenstown have had little experience of archaeology and have yet to come to terms with, and accept that, archaeological assessments and investigations are one of the many costs of a development. Developers of the Beach Street casino site, however, felt that they had had a bad experience of archaeology, the negatively framed answers (above) reflect such an experience.

One of the difficulties of development in the current legislative environment to be mentioned in an interview was that

‘planning and development in Queenstown is incredibly political and can be frustrating. Too often people use the RMA as a weapon to meet their own agenda’.

The result is that any new requirement, cost, or delay may be viewed with suspicion.

Two interviewees also added that:

‘It would be helpful if someone could come up with suggestions on how to control costs of archaeological investigations’.

‘Developers would like at least a rough estimate of the costs before archaeology occurs.’

This leads on to a further problem in urban archaeology; developers cannot arrange an archaeological investigation prior to development being undertaken. A building must be
removed to allow archaeological investigations to be completed. Therefore delays in
development are inevitable where archaeological sites are concerned. In terms of the
archaeological investigations in Queenstown, developments were held up where
archaeological consents were not applied for in advance. One interviewee expressed the need
for developers to be made aware of their obligations well before construction commences as
‘conflict could occur when archaeologists were working at the same time as other
construction contractors.’

All of the developers interviewed felt that there were too many historic heritage protection
agencies in operation. And also that there seemed to be a lack of direction or communication
between them. The following are characteristic of their comments:

‘There are too many organisations all trying to save different things they need one umbrella,
one voice, they would achieve a great deal more.’

‘They need a central agency not individual units going their own way’.

A couple of the interviewees mentioned that a significant problem was insufficient awareness
of archaeology and that it required more publicity. It was mentioned that the NZHPT needed
to be more proactive where archaeological sites were concerned, and that

‘people have the impression that if they have something historical/archaeological on their
property then they will be unable to do anything with it.’

One cited the example of the Victoria Bridge development for which tangata whenua were
consulted but the developer had never considered that historic archaeological matters would
be an issue for the NZHPT,

‘we never consulted them. It was only when NZHPT objected to the development that the
developer realised.’

**Issues raised by QLDC planning staff**

On sources of archaeological information for the development of the Proposed District Plan
planners interviewed offered the following: Archaeological information consists of lists of
NZHPT registered archaeological sites, there are approximately thirteen included section 13
of the Proposed District Plan. There are also several ‘historic precincts’ in and around the
centres of Queenstown and Arrowtown. The information for the development of these areas
was gathered by planners who drove around identifying what they believed were heritage
items. When resource consents are applied for in these areas Civic Corp sends the applications
to the NZHPT. In Arrowtown all proposed changes to the main street must be notified. The
Arrowtown Heritage Advisory Group must also be notified. In other areas of the district, if
Civic Corp planners believe there may be heritage/archaeological values in an area of proposed development or subdivision they notify the NZHPT. According to one planner 'previously (two years ago) there was no such consistency in the processing of consents.' A perceived problem with listing heritage in the plan is that 'people don't want their land titles tagged with anything that will affect their value.'

The QLDC does not have archaeological information in a GIS, although they are hoping to add it to their GIS with the help of the NZAA Site File which they have recently been made aware of. At the time Civic Corp developed the historic heritage listing for the plan they were unaware that the NZAA existed. However they were aware of the wahi tapu/archaeological site listing in the Kai Tahu ki Otago Planning Document,

'we were surprised by the number of archaeological sites/wahi tapu in the Kai Tahu ki Otago Planning Document, they were not included in the plan only the NZHPT registered ones.'

One planner mentioned that resource consent applications received by the Council are of a poor standard. Planners are supposed to be auditors of consents, whereas in Queenstown planners are 'basically writing them'.

'Applicants are now being encouraged to take into account that they may require heritage assessments. They are more aware now because of the recent archaeological excavations in town.'

Another planner provided an example of the contrast in developer attitudes to heritage in Queenstown; at the end of the year 2000 there were two developments of historic buildings occurring simultaneously. One was Eichardts Hotel, which required an archaeological authority. The second was the redevelopment of the Council building, owned by the mayor Warren Cooper (for further detail refer to Mountain Scene 12/10/2000).

'They are a good comparison because in the case of Eichardts Hotel the archaeological consent and communication between the NZHPT and the developers occurred at the outset. In the case of the council redevelopment the NZHPT had to force the developer [Warren Cooper] to recognise the heritage value of the building and the legislation that protects it, it is a NZHPT registered historic building and it is included in the QLDC plan.'

In terms of the role of the Otago Regional Council interviewees mentioned that the regional council had given many of its functions to QLDC; 'Otago Regional Council largely plays a back seat role.' The Otago Regional Council does not monitor the District Councils as 'there is no point'.

Planners believed that heritage was not a priority of council and that political will and funding was lacking. Interviewees said that the NZHPT took the leading role in the management of historic heritage in the district and this is a role they would like to see the NZHPT maintain,
'there is the potential for conflict. Historic heritage won't receive the same priority if funded by local government.'

Also that

'in Queenstown, it is necessary to have an outside advocate for heritage with statutory power. If responsibility was given to Council to manage heritage it would be too difficult because that person would have to sit beside the developer, it is too difficult to ask someone to sit in that position'.

A significant issue related to the Queenstown Lakes District is the transient nature of the population. For many there is no appreciation of the town’s history, 'an appreciation would lead to greater protection.' Civic Corp planners believed that in order for the situation to be improved developers had to be made aware of the issues,

'we need to educate the community if heritage is to be protected, we need to change the attitudes of the public and the developers will come around.'

Those interviewed expressed optimism for a developing community awareness of cultural and historic heritage. However it was felt that people were primarily aware of natural rather than cultural heritage as Queenstown is dependent on its natural heritage landscape for tourism.

Structured interview results

Table 6.1 illustrates the responses of Queenstown Lakes District interest group members and developers to the question, “what does the term heritage mean to you?”

<table>
<thead>
<tr>
<th>Interest Groups</th>
<th>Developers</th>
</tr>
</thead>
<tbody>
<tr>
<td>• A link to the past</td>
<td>• Our physical, cultural, social environment that we get to modify</td>
</tr>
<tr>
<td>• A birth right</td>
<td>• A reflection of community values, it needs to find its place in the context of current and planned development not be a means of defeating development</td>
</tr>
<tr>
<td>• A national problem</td>
<td>• National Parks</td>
</tr>
<tr>
<td>• Roots</td>
<td>• Historic buildings</td>
</tr>
<tr>
<td>• What we are</td>
<td></td>
</tr>
<tr>
<td>• Archaeology</td>
<td></td>
</tr>
</tbody>
</table>

It is interesting to observe that developer responses keep heritage within the context of development, reflecting the pro-development attitude characteristic of the town. This attitude does not come across so vividly in the responses of the developers interviewed in the Tasman District (see Table 6.3). Interest groups in comparison emphasise the importance of heritage for defining who we are in the present.
Table 6.2: Interest group and developer awareness of historic heritage protection agencies.

<table>
<thead>
<tr>
<th>Interest Groups</th>
<th>Yes</th>
<th>No</th>
<th>Developers</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>NZHPT</td>
<td>5</td>
<td>0</td>
<td>4</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>NZAA</td>
<td>4</td>
<td>1</td>
<td>1</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>DOC</td>
<td>4</td>
<td>1</td>
<td>1</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>Iwi</td>
<td>1</td>
<td>4</td>
<td>3</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Historical Societies</td>
<td>5</td>
<td>0</td>
<td>2</td>
<td>2</td>
<td></td>
</tr>
</tbody>
</table>

Table 6.2 demonstrates Queenstown interviewees' knowledge of historic heritage organisations. The NZHPT is the only organisation that all QLDC interviewees were aware of. It was to be expected that interest group members would have a greater knowledge of the organisations and their role in heritage management. However it is interesting to point out that the developers were more aware of the role of tangata whenua than were interest group representatives. The majority of developers were unfamiliar with the NZAA or the role that the DOC played in historic heritage management.

6.3 Case study 2: Tasman District

Tasman District provides an interesting comparison to Queenstown Lakes District for a number of reasons. The Tasman District Council (TDC) is a unitary authority, which means it performs the functions of both district and regional councils. The district is large and there is no major urban settlement. Provisions for cultural heritage protection were proposed in the plan and subsequently removed due to community opposition to them and the Council’s inability to defend their decisions. In comparison to Queenstown Lakes District there are also a greater number of tangata whenua iwi to be acknowledged by the Council. There are eight iwi in the top of the south (Te Tau Ihu). In addition TDC was faced with a strong landowner resistance to the heritage provisions in the proposed plan. This was, in part, due to insufficient consultation being carried out by the Council in the planning stage. Another reason was that both natural and cultural heritage were combined in original map overlay zones, overwhelming landowners who considered their private property rights compromised by the plan.

The number of recorded archaeological sites available from CINZAS in 1999 for inclusion in the TDC Plan was 924. Of these, 685 (74%) were in the prehistoric/Maori category and 234
(25%) were recorded as historical sites, and nine sites were common to both. The file has increased by 2% in the past three years, and now the number of sites recorded in the district is 939, with 696 prehistoric/Maori and 234 historical and nine that are common to both. In comparison to Queenstown Lakes District the majority of sites recorded in the Tasman District are prehistoric or Maori sites.

The sequence of events relating to the abandonment of the historic heritage provisions in the Proposed Tasman Resource Management Plan are detailed in a document produced by the Council in 1996 and are as follows:

During the summer of 1994/1995 investigation and consultation was conducted in order that heritage provisions be developed for the Proposed District Plan. The Cultural Heritage Area, the zone in which there is a concentration of NZAA recorded archaeological sites, was developed on advice from the DOC archaeologists.

The Proposed Tasman Resource Management Plan was notified on the 25 of May 1996. The responses were variable. The following problems with the administration of the provisions became evident:

1. The extent of the Cultural Heritage Area which is not sufficiently defensible.

2. The range of development activities subject to the rules

3. The obligation on property development interests to have archaeological survey work undertaken (at this time there were only two archaeologists known to the district). In addition consultation with tangata whenua in relation to wahi tapu was considered unreasonably onerous for individual developers.

On 21 October 1996 the Cultural Heritage Area rules were deleted. This action was the result of community concerns raised with the Council, and through the submissions on the Proposed Plan.

**Tasman Resource Management Plan provisions**

Chapter 10 of the Proposed Tasman Resource Management Plan is entitled: Significant natural values and cultural heritage. As the title suggests both natural and cultural heritage are combined. The introduction to Chapter 10 mentions the following with regard to cultural heritage:
Heritage buildings, places and objects are also valued components of the District's heritage. Archaeological sites, including sites of significance to Maori (wahi tapu) also form part of the cultural heritage of the District. However there is generally little visible evidence of these sites, many of which are along the coast. [...] 

The Historic Places Act 1993 empowers the New Zealand Historic Places Trust to register heritage resources. The purpose of the register is to inform the public generally, and notify landowners in particular, of the nature of heritage resources; and to assist such resources to be protected under the Resource Management Act 1991. In respect of archaeological sites (including those sites of significance to Maori), the Historic Places Act provides for the protection of sites associated with human activity before 1900, and includes a process whereby application must be made to destroy, damage or modify an archaeological site.

Key issues with regard to archaeological sites include:

10(1)(b) [...] Archaeological sites are particularly sensitive to damage from activity that modifies the existing ground level or subsoil in any way. Activities such as building development, land clearance, excavation, levelling or the formation of roads and tracks may irreversibly damage or destroy archaeological sites.

10(1)(c) Inventories of heritage resources are incomplete. A significant issue is the likely presence of archaeological sites which are currently unknown, but for which protection may be desirable. [...] While the New Zealand Archaeological Association holds records in relation to a large number of sites in the District, the nature and significance of these sites has generally not been verified and in most instances the exact location and extent of the site is not known. There is therefore a need for further investigation to be undertaken.

In order to protect cultural heritage items the TDC Plan includes policies to protect NZHPT registered historic places [10.1.3]. To protect archaeological sites or sites of significance to Maori [10.1.4] and to protect archaeological sites or sites of significance to Maori in coastal, river or lake margins through the establishment of esplanade reserves or strips [10.1.5]. There is also a policy [10.2.3] relating to maintaining the context of archaeological sites and sites of significance to Maori where subdivision may undermine their integrity.

To implement these policies TDC proposes five strategies. The first is rules relating to NZHPT registered archaeological sites, and provisions for the creation of esplanade reserves and strips. Secondly the Council lists further investigation into archaeological site and wahi tapu location, nature, inter-relationship and significance. In addition the Council intends to monitor the number of archaeological sites and heritage buildings that are damaged or destroyed. Other implementation methods include advocacy and education, the acquisition of reserves for protecting heritage and financial incentives. Financial incentives include
assistance for projects to protect heritage, the establishment of a heritage fund and rates relief for sites registered by the NZHPT or included in the Plan.

In justifying these provisions the TDC Plan [10.1.30] states the following:

It is not possible to accurately identify all archaeological and Maori sites in the District and to include them in a schedule to the Plan. Therefore, only the sites which have been registered by the New Zealand Historic Places Trust, for which information is available on the location of the site, its nature and significance, are listed in the Plan for protection. The current knowledge of archaeological sites and sites of significance to Maori in the District is incomplete and there is a need to better understand the significance of sites and site risks, to form a basis for any future protection.

Chapter 18 of the Proposed Tasman Resource Management Plan contains rules regarding heritage. TDC deals with historic heritage as one of a number of ‘special areas’ that have particular rules. Other ‘special areas’ include the coastal area, quarry areas, and slope instability hazard areas for example. Section 18.1.10 makes the construction of a building or structure, land disturbance or the planting of trees either on an archaeological site listed in Schedule 18.1D or within 20m of such a site a discretionary activity for which a resource consent is required. Schedule 18.1D contains a list of twenty-one archaeological sites that are on the NZHPT Register. No unregistered archaeological sites are included in the schedule. In considering a resource consent application section 18.1.10 requires TDC to consider issues such as the nature, form, extent and necessity of an activity and its effect on a site and the impact a proposal has on the integrity or heritage value of a site. It must also consider whether there is sufficient time and expertise to record affected sites and the response of tangata whenua.

Issues raised by interest groups

Tasman, similar to Queenstown Lakes District, has a number of historical societies including a local branch of the NZHPT with more than eight hundred members. Most of the interest group interviewees of Tasman District belonged to one or more of these societies.

In terms of the role the Council played in historic heritage management, most interest group interviewees believed the TDC lacked the political will or commitment to protect archaeological sites and historic heritage. An interviewee said ‘the council takes no leading or advocacy role even though the RMA requires them to do so.’ Reasons why included:

‘Elected councillors see it as an imposition on private landowner rights.’
And

'Councillors exhibit archaic attitudes, this includes the mayor.'

One interest group representative identified the following problem with the operation of TDC:

'There is a dislocation between the arm of the planners and that of the councillors at TDC. The council staff are good at their job but they have a lot of trouble getting things through Council.'

Also that

'the planners are aware of the issues but don’t have the tools, in terms of archaeology they have been provided with the tools (maps etc) but their internal systems let them down.'

A problem respondents believed was characteristic of management across such a large district was lack of uniformity.

'The service centres are bad [service centres often used to be borough councils in their own right], they are used to doing their own thing and take no notice of Richmond [head office], they don’t care about the resource consent process.'

The majority of individuals interviewed mentioned that there was a good planner in Golden Bay, who was sympathetic to archaeological issues, however there was insufficient support from the Richmond office.

A variety of additional problems were mentioned in relation to the Tasman District Council’s management of historic heritage including the fact that

'one cannot explain to the Council that NZHPT registration doesn’t mean anything when it comes to archaeological sites.'

Another problem mentioned, also evident in the Queenstown Lakes District study, was that if the Council

'can avoid notifiable consent they will, if they can avoid consultation they will.'

Most interviewees mentioned ways they believed TDC’s management of heritage could be improved. The following are representative of interviewee comments:

'They require more informed staff and a more pro-active attitude towards heritage management in the plan. It is an education thing really; the councillors and the service centres need to wake up.'

'Council requires more comprehensive and accurate records of heritage that they can readily access.'

'In theory; we would like to see all of TDC staff come to terms with heritage issues and lead by example and lead consistently.'

An issue of importance in the Tasman District at present is the problem of subdivision and historic heritage. One interest group representative pointed out that due to the fiscal weakness
of the NZHPT it was unable to force owners to get an archaeological survey carried out before a subdivision was approved. ‘Therefore councils should be the ones requiring developers to commission surveys.’ One interviewee mentioned another problem associated with surveys and subdivisions,

‘the NZHPT only requires an archaeological survey for a subdivision if there is a recorded archaeological site on the property. The NZAA data is often out of place and the NZHPT has not required surveys of some subdivisions in Golden Bay even though locals have told the NZHPT the accurate location of the sites.’

Interviewees also felt that there was a lack of communication between historic heritage protection organisations in the district; ‘the system is inconsistent all protection agencies are saying different things, iwi, local Government, NZHPT, and archaeologists.’

In addition some of those interviewed believed there needed to be a commitment on the part of the historic heritage management agencies for a partnership with iwi and there also needed to be a commitment by iwi. It was also noted that in the region ‘all things are a little uncertain as we are waiting to find out the results of the Treaty settlements that are two to three years away yet.’ One response was that Maori wanted a stronger more autonomous role in the management of their heritage. Another individual was fearful that Maori spirituality might be becoming a commodity.

Most interviewees expressed concern over the general lack of awareness exhibited by the public with regard to historic heritage, ‘the public have got to be educated, they can be educated.’ One said that ‘developers here see archaeological resources as a brick wall that they have to beat their way through rather than work their way around.’

**Issues raised by developers**

In the case of the Tasman District there have been no large-scale urban archaeological investigations as there have been in Queenstown. The developers interviewed in the Tasman District were, in many ways, different from those interviewed in Queenstown. Two developers interviewed were individuals who applied for archaeological authorities prior to the construction of private homes rather than commercial properties, as was the situation in Queenstown. The interviewees in the Tasman District were not of the opinion that archaeology inhibited development. That is not to say, however, that they were entirely supportive of the current system of historic heritage management in the district.
Interviewees expressed concern over the apparent paucity of knowledge the Council held in regard to archaeological matters. In regard to a Golden Bay subdivision one developer interviewed revealed that

'at the time we were required to get an authority the TDC was only just coming to grips with the archaeological site and only because they had made a mistake with a resource consent on the subdivision previously and been pulled up by the NZHPT.'

In another interview it was reported that several landowners had to pay for archaeologists while others in the same subdivision

'got away with it [...] clearly the site must have been under their house as well. The Council didn't do a good job in this example.'

One developer believed that if a site was of national importance 'which some in the Golden Bay area obviously are then why can't the government pay for investigation?'

In two cases developers felt that they had been excluded from the archaeological process, saying

'three sets of archaeologists have come – is it necessary that so many come? And why do they have to revisit the same site so many times? Why can't they get it right the first time?'

They also felt it would have been helpful if someone had explained the process and the significance of the archaeological site; something the interviewee is still unaware of.

Developers also expressed the need for continuity or uniformity in decision making between organisations:

'There is no “one-stop-shop” for heritage. I think the Council should be the one to pull it all together and give direction of where to go.'

One interviewee expressed dissatisfaction with their experience of the NZHPT:

'Vere not happy with the Trust. We had to deal with a different person each time. There seems to be no one place where you can get adequate information.'

Two interviewees thought that developers should be made to undertake an archaeological investigation before they subdivide so that those who purchase a part of a subdivision 'don't get a nasty surprise when they go to build their house'.

Individuals interviewed also believed that there was a lack of public knowledge about archaeology. This is expressed in the following comment: 'People know about buildings, they don’t know about archaeological sites.'
Issues raised by TDC planning staff

According to a TDC policy planner the Council reluctantly accepts it has obligations under the RMA. The interviewee believes that being a unitary authority is a disadvantage in some ways;

‘there are a wide range of issues to be dealt with in the district and heritage is just one, there is no major urban centre from which to draw rates funding. The district is largely rural.’

For the TDC to adequately manage historic heritage it would require more funding either from central government or corporate sponsorship. ‘In this district there needs to be a political acceptance of the need for the work. And funding.’

The interviewee perceived historic heritage management to be a national problem and not one to be left to local government as there are crown issues to be considered. In regard to improvements that could be made to the current system the interviewee considered the following to be a necessity:

‘A much more up-front national policy and the preparedness of the government to work at the local level with councils and iwi, including education packages. Also stronger legal obligations. There are no guidelines, no one knows what a lot of it means and no one is giving support. Government has to recognise that it needs to provide more equality of opportunity to local councils, some who don’t have the resources.’

As mentioned above, TDC developed an archaeological overlay on the advice of the DOC archaeologists, but this was subsequently removed from the plan. Currently the council has a database for the archaeological sites; as yet there is no data in it. Apparently the council is negotiating with the NZAA to upgrade archaeological data. The interviewee believes archaeological information for the Golden Bay region of the district is superior to that of Tasman Bay. The primary reason being that a local archaeologist has helped develop maps of NZAA data and continues to monitor the situation in Golden Bay.

In response to the question: “Do you think heritage/archaeological sites are being appropriately managed in this district?” The interviewees response was: ‘Not at all’. Reasons for this included deficit of knowledge and expertise within the Council in regard to the value of archaeological resources. There is insufficient understanding of the risks to archaeological values, and ways of assessing whether such values should be compromised at the expense of other values. There is no way of monitoring the loss of archaeological resources in the district. Additionally there is a lack of political will where historic heritage management is concerned.
According to a TDC policy planner a primary problem in cultural heritage management in the district is the lack of respect and recognition of Maori culture and traditions. The TDC has a poor relationship with iwi and this makes consultation difficult.

'Ironically there is greater recognition and acceptance of historic buildings than things Maori. There is a lot of suspicion and prejudice against things Maori. It is a fairly racist district.'

The interviewee felt that iwi needed a greater capacity to deal with resource management.

'Here they are not well represented, not hugely knowledgeable, not well resourced. Government needs to provide some kind of assistance, there is a Crown obligation here as well.'

In the Tasman District there exists a diverse landowner aggregate with which the Council has to operate. A number of families have lived on their properties for generations and were of the opinion that the heritage provisions introduced in the 1996 plan were an imposition on their private property rights. ‘Farmers wouldn’t allow the heritage provisions so the Council took the message and removed them.’

Structured interview results

Table 6.3 lists Tasman District interviewee responses to the question: What does the term ‘heritage’ mean to you? Interest group responses display the emphasis on heritage being something that has been handed on from the past therefore conveying inherent value for the present. It is interesting to note that in both Queenstown (see Table 6.1) and Tasman Districts several developers interviewed associate heritage with something tangible for example a historic building, whereas interest group members were more likely to mention the intangible or spiritual values associated with heritage.

Table 6.3: Tasman District interviewee perceptions of what the term ‘heritage’ means.

<table>
<thead>
<tr>
<th>Interest Groups</th>
<th>Developers</th>
</tr>
</thead>
<tbody>
<tr>
<td>History</td>
<td>Anything of cultural value</td>
</tr>
<tr>
<td>Whakapapa</td>
<td>Old things that are re-found</td>
</tr>
<tr>
<td>Nga taonga tukuiho (all of the treasures that have been handed down)</td>
<td>Historic buildings</td>
</tr>
<tr>
<td>Natural and cultural things that are handed down</td>
<td>Looking after what was done in the past</td>
</tr>
<tr>
<td>Values that we deem sufficiently important to be safeguarded and handed on to future generations</td>
<td></td>
</tr>
<tr>
<td>Human impacts upon the land</td>
<td></td>
</tr>
<tr>
<td>Anything that has significance for you</td>
<td></td>
</tr>
</tbody>
</table>
It is of interest to point out that only three interviewees made specific mention of the natural
environment as heritage when the two are so often linked in statute and planning. The
interviewer’s reference to historic heritage in other questions asked of the interviewees,
however, may have biased this result.

Table 6.4: Interest group and developer awareness of historic heritage protection agencies.

<table>
<thead>
<tr>
<th>Interest Groups</th>
<th>Developers</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Yes</td>
</tr>
<tr>
<td>NZAA</td>
<td>5</td>
</tr>
<tr>
<td>HPT</td>
<td>5</td>
</tr>
<tr>
<td>DOC</td>
<td>5</td>
</tr>
<tr>
<td>Iwi</td>
<td>5</td>
</tr>
<tr>
<td>Historical Societies</td>
<td>5</td>
</tr>
</tbody>
</table>

Responses to questions on the role of organisations involved in heritage management and
protection are illustrated in Table 6.4 above. The results demonstrate that interviewees in the
Tasman district possessed a greater awareness of the organisations associated with historic
heritage than those interviewed in Queenstown (see Table 6.2). The only organisation
developers were poorly aware of was the historical societies of the Tasman District.

6.4 Combined case study results

Developer responses, Queenstown and Tasman districts

The following section details the combined Queenstown and Tasman districts developer
responses to the structured interview questions.

Responses to the first question, “how did you find out about the archaeological authority
application process”, are illustrated in Table 6.5. This question was aimed at determining how
applicants are made aware of the requirement for an archaeological authority under sections
11 or 12 of the HPA 1993.
Table 6.5: Ways Queenstown and Tasman developers were made aware of their requirement for an archaeological authority under section 11 or 12 of the HPA 1993.

<table>
<thead>
<tr>
<th>Prior knowledge that an authority was required</th>
<th>Queenstown</th>
<th>Tasman</th>
</tr>
</thead>
<tbody>
<tr>
<td>Approached the NZHPT independently of the Council</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Became apparent during the resource consent application process</td>
<td>1</td>
<td>3</td>
</tr>
<tr>
<td>Interviewee cannot recall</td>
<td>2</td>
<td></td>
</tr>
</tbody>
</table>

Table 6.5 demonstrates that one interviewee was aware an archaeological authority was required for their development. This assumption was based on the developer having prior experience of dealing with historic heritage issues. This developer said they knew they were dealing with a historic building so they approached the NZHPT. The majority of developers however, were only made aware of the requirement for an authority after they had submitted their resource consent application.

In both regions none of the developers interviewed had received any information or guidance regarding historic heritage from their Council. One respondent reported receiving the phone number of the NZHPT Head Office from the Council. All those interviewed felt that their Council had an ineffective role. The majority of the interviewees were informed of archaeological sites and the requirement for an archaeological authority when they had applied to the Council for a resource consent. Generally developers found this unsatisfactory.

Table 6.6: Stage of development Queenstown and Tasman interviewees applied for archaeological authorities.

<table>
<thead>
<tr>
<th>Stage of development</th>
<th>Queenstown</th>
<th>Tasman</th>
</tr>
</thead>
<tbody>
<tr>
<td>During initial project design</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>When the Council required it</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>At the last minute/ as work started</td>
<td>1</td>
<td>1</td>
</tr>
</tbody>
</table>

Table 6.6 shows the stage of development at which an archaeological authority was applied for by developers in each district. With regard to those who applied for an archaeological authority at the outset of development, they were people who were already aware of the potential historic heritage values of the property and approached the NZHPT independently. The majority of developments had gone beyond the initial planning stages before they applied to the NZHPT for an archaeological authority.
Table 6.8: Queenstown and Tasman developer views on whether the archaeological authority application process was in their experience satisfactory.

<table>
<thead>
<tr>
<th></th>
<th>Queenstown</th>
<th>Tasman</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>No</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Indifferent</td>
<td>1</td>
<td>1</td>
</tr>
</tbody>
</table>

Table 6.7 illustrates the responses to the question on whether or not developers interviewed found the archaeological authority application process satisfactory. Although the results show a mixed response, developers in both districts suggested a number of ways the process may be improved. These are included the following points:

- Making developers aware of their obligations
- Making people aware of archaeology
- Shortening the time it takes to process an authority application
- Encouraging developers to act on their obligations at the outset
- Having information available on how to control costs
- Initial archaeological assessments should not cost developers
- It would be useful if archaeology was publicised, especially the benefits
- Require a heritage professional at the Council as there is no point of contact when developers want to complain
- Archaeological sites should be included in the District Plan and zoned for, that way it is open to the public and developers can know in advance

None of the developers interviewed considered requesting compensation for any inconvenience the archaeological site may have incurred. One commented that 'archaeological delays are minor compared with other delays'. Another said they were compensated by the NZHPT as they got the application processed and the archaeological investigation completed rapidly.
Table 6.8 shows developer responses to the role they believed the Council played in regard to providing information or guidance to developers who were required to apply for an archaeological authority.

Table 6.8: Queenstown and Tasman interviewees reaction to the role their Council played with regard to providing information or guidance to archaeological authority applicants.

<table>
<thead>
<tr>
<th></th>
<th>Queenstown</th>
<th>Tasman</th>
</tr>
</thead>
<tbody>
<tr>
<td>Good</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Poor</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>No Role</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>No Comment</td>
<td>1</td>
<td>1</td>
</tr>
</tbody>
</table>

The majority of interviewees felt that their councils played an unsatisfactory or non-existent role in the process. One response was:

‘They have a non-existent role, the obligation is on the owner, it’s up to the Council to make sure they’ve complied, if you have complied there is no need for the Council to play a role, it’s all done between the owner and the NZHPT’.

**Interest group responses, Queenstown and Tasman districts**

The following section combines both the Queenstown and the Tasman district interest group representatives’ responses to structured interview questions. The first question asked of the interest group interviewees was: “What role do you believe the council plays in the management of heritage in the district?” In both Queenstown and Tasman districts interest group interviewees believed the councils played little or no role in the management of heritage in their districts’. Representative comments include the following:

‘The Council is not enthusiastic about cultural heritage’

‘They are inconsistent’.

‘Economic values over-ride history.’

None of the respondents were happy with the way historic heritage was being managed in their district. In response to the question, “how would you like to see the situation improved?” Interviewees mentioned the following:

- Sack the current councillors/vote no-confidence in the mayor
- Require comprehensive and accurate records to be maintained
- Council staff need to be aware of Tikanga Maori – if they are not prepared to become familiar and aware they should not be on council.
• Employ staff who are knowledgeable about historic heritage, or have someone on hand who could be consulted before any projects begin.

• In coastal areas all developments should require an archaeological assessment.

• They need to talk rather than decide things behind closed doors.

• Other organisations, historical societies for example, are doing the work for them. The councils are ignorant and rely heavily on the NZHPT and the historical societies.

• Require more appreciation and respect for groups promoting heritage

• Require a key policy at both a national and a local level.

• Need communities to be better informed on the value of heritage and archaeological investigation. This means getting the information/reports back to the community as soon as possible while it is still in their minds.

• There needs to be a stick as well as a carrot.

The majority of those interviewed as representative of interest groups were aware of the provisions for heritage in the proposed plans. The majority had also made submissions on these components of the plans. None of those interviewed had ever tried to obtain information on heritage resources in their district from the Councils. There were a variety of reasons, many mentioned that they were the ones who provided the information, another reason was that they believed the information to be inadequate and it was better to get it elsewhere for example the NZAA, the DOC and the NZHPT.

6.5 Discussion

A positive aspect worthy of mention is the fact that both districts’ plans recognise archaeological sites as an historic heritage resource. From the results presented above however, it can be argued that the QLDC and TDC are failing to adequately manage and protect historic heritage, particularly archaeological sites. The following summary list adds weight to this claim:
- Both proposed plans include only those sites Registered by the NZHPT despite there being a large number of NZAA recorded sites in their districts. Therefore archaeological resources are not adequately accounted for in either district.

- Neither council has adequate archaeological information readily available.

- None of the archaeological sites and few scheduled historic heritage items have prohibited activity status.

- The rates at which archaeological sites are being damaged, destroyed or modified is not monitored by either council.

- Policy planners are trying to perform but their actions are inhibited by councillors. Councillors are a reflection of community values.

- Both councils regard the NZHPT as the sole historic heritage management organisation, particularly with respect to archaeological sites; they see their role as supportive rather than proactive.

- Developers are unaware of their obligations and are generally unappreciative of historic heritage values.

- Both councils have insufficient community support for historic heritage. On the positive side both communities have relatively large numbers of individuals affiliated with historical societies who act as district advocates for heritage preservation.

- A lack of historic heritage knowledge requires expertise at local government level. Proactive historic heritage advocates are the primary reason historic heritage is being preserved.

A primary reason for the inadequacy of protection of archaeological resources in the districts case studied is the absence of adequate information on archaeological sites. The QLDC Proposed District Plan lists thirteen NZHPT Registered archaeological sites, but it does not include NZAA recorded archaeological sites, which are numerous. When preparing their plan, policy planners were reported to be unaware of the NZAA’s existence. The QLDC was aware of the Kai Tahu ki Otago Planning Document but failed to list the sites recorded in this document as they perceived that their obligation was to simply incorporate NZHPT Registered items into their plan. QLDC’s plan policies however, make mention that Civic
Corp aims to incorporate NZAA sites and identify wahi tapu sites, areas and archaeological sites. Like the QLDC the TDC does not include NZAA recorded archaeological sites in their Proposed Resource Management Plan as they consider the NZAA information to be of poor quality. Instead the TDC lists NZHPT registered sites based on the assumption that the Register holds more accurate data.

The aim of the interviews designed for authority applicants was to determine user experience and perceptions of the current archaeological authority application process and their impressions of the role the council played in this process. Developers perceived a multiplicity of historic heritage protection agencies. They expressed general confusion with regard to the archaeological authority process. However interviewees who had previous experience with historic heritage matters were aware of the archaeological authority process and felt it was adequate. There was general consensus that councils were not up to speed with historic heritage issues. Many believed that, in their experience, councils had failed to handle or play a role in regard to the archaeological authority requirements the interviewees encountered.

The TDC case study highlights the need for councils to require archaeological information and assessments prior to subdivision consents being processed. In the case of a particular subdivision consent granted by the TDC, inadequate archaeological information and lack of expertise at local government level prevented appropriate management of the situation.

In both districts, interviewees mentioned that insufficient communication and co-ordination between historic heritage management agencies and consultants, was inhibiting historic heritage management and protection. Both developer and interest group interviewees believed there was a need for a single national agency to front historic heritage management. From the Queenstown Lakes District example it is evident that local government, especially one faced with demand for rapid development, is an inappropriate agency to be given responsibility for preserving heritage.

One of the greatest concerns of those interviewed was the general lack of public awareness of archaeology. Both developers and interest group representatives express the need for greater public awareness. The role the council plays in historic heritage management is not widely recognised by the public, interest group members or developers. The council is a local point of contact for developers, particularly through the resource consent process. It is also an organisation recognised by the community as representing their interests. Greater community interest can be fostered through council initiatives to manage and protect historic heritage and
public education programs. Councils, however, must acknowledge their responsibility for historic heritage management and protection.
CHAPTER 7  FUTURE DIRECTIONS

7.1 Introduction

The aim of this thesis was to examine the role local authorities play in historic management and protection in order to ascertain whether it would be appropriate for local authorities to be given greater responsibility for historic heritage management. To develop an understanding of the processes that have led to the current system of historic heritage management, the historical development of statutory provisions were discussed. The legislative development has resulted in a system of historic heritage management in which local authorities are provided with a critical role at the local level. To determine the role local authorities are currently provided with, an analysis of the primary statutory provisions available for historic heritage management, particularly archaeological resource management, and the sources of archaeological information available to local authorities was undertaken. In order to evaluate current practices of local authority historic heritage and archaeological resource management this thesis investigated the roles local authorities perceived they played. This was followed by an assessment of the practice of archaeological resource management in two districts. Current practice was evaluated by assessing district plan provisions, and the perceptions of council staff, members of local communities, as well as individuals who had experienced current archaeological resource management. This chapter ties together some of the themes that emerged as a result of the research undertaken.

7.2 Legislation

The first chapter of this thesis discussed the meanings of heritage. It is understood that people’s concepts of heritage are individual, therefore as a resource, heritage has been difficult to define and create legislative provisions for. No Act has so far attempted a definition of heritage, the result being that local authorities interpreting the legislation often fail to recognise their obligations with regard to historic heritage. Chapters Two and Three examined the historical development of legislative provisions and the statutory provisions guiding the management and protection of historic heritage today.

For over a century New Zealander’s have recognised that the country possesses distinct natural and cultural heritage. This was evident at the turn of the century with the
implementation of the Scenery Preservation Act 1903 followed by the centenary celebrations of the 1930s and 1940s. Both natural and cultural heritage have historically been combined in legislation and the RMA continues this trend by considering the environment in a holistic sense. Resource management and the concept of sustainability have created a mandate to preserve resources for future generations. Archaeological sites have been recognised as an important historic heritage resource, therefore there has been a movement toward protecting not only the information contained within sites but also the sites themselves. The country has witnessed a continued bias toward the protection of natural rather than cultural/historic heritage. The newly formed Ministry for Culture and Heritage is a step toward recognition that while the environment can be considered holistically, natural and cultural heritage cannot come under the jurisdiction of an organisation that manages and promotes the preservation of both. Under the Local Government Act 1974 and the RMA local authorities are required to manage local resources. A positive result of legislative change, evident in the results presented in this thesis is that of councils surveyed the majority that responded acknowledged their role as historic heritage managers conferred on them by the RMA. Nevertheless, a number of problems are inherent in the current historic heritage management legislative regime.

The primary Acts relating to the management and protection of archaeological resources analysed in the present thesis are the RMA and the HPA 1993. This thesis has investigated current legislative provisions, local authority interpretation of the provisions and current historic heritage management practice by local authorities. Problems appear to be representative of differing interpretation of the legislation rather than statutory provisions themselves. Principal legislative problems identified through the course of this thesis can be grouped into five broad categories.

Firstly, various problems are related to the way historic heritage legislation is written and how it is interpreted. A definition of the term 'historic heritage' is absent from any piece of legislation that includes provision for the management of historic heritage. Additionally historic heritage is not considered a matter of national importance in the RMA. This has been interpreted to mean that there is no clear mandate for local authorities to manage and protect archaeological sites. This could be alleviated with the implementation of the RMA Amendment Bill 1999 and the recommendations of the Local Government and Environment Committee. The Bill and recommendations include the words 'archaeological site' in the definition of historic heritage, and shift historic heritage to a matter of national importance to
be contained under section 6(f). These statutory provisions should be interpreted as a clear mandate for councils to include provision for the management and protection of archaeological sites in policy statements and plans. Councils can use incentives, such as those provided for under the Rating Powers Act 1988, to encourage historic heritage preservation. Until councils are provided with a clear mandate under the RMA for the management of archaeological sites they are unlikely to implement such policies.

Historically and under the present system there is an emphasis on archaeological information recovery rather than preservation of archaeological sites for future generations. This is inconsistent with the underlying tenet of sustainable management in the RMA. The principle legislative mechanisms are conveying contradictory messages. The HPA 1993 requires an authority to destroy, damage or modify, rather than preserve archaeological sites, this reflects the archaeological or scientific perspective that archaeological sites are valuable for the information that they contain. The RMA in comparison provides historic heritage managers with the role of managing and preserving resources for future generations.

The second issue, and perhaps the one in most need of attention, is the absence clear guidelines (such as a model ordinance or a National Policy Statement) prescribing ways councils or other historic heritage organisations should manage historic heritage. Although ‘best practice’ guidelines are available (NZHPT 1992, PCE 1998, NZHPT 1999), this is clearly something councils feel they need. At present there are six types of organisation with statutory provisions for managing and protecting historic heritage, though there is little cohesion between them. There is no clearly specified historic heritage management function that each level of government is to perform. Such confusion has led some local authorities to believe that historic heritage management is the responsibility of another level of the three-tier arrangement, or organisations external to this regime. Local authorities clearly require a national standard, guide or policy statement for historic heritage. In considering a resource consent application consent authorities must have regard to any relevant National Policy Statement, New Zealand Coastal Policy Statement, regional policy statement and any relevant objectives, policies, rules, or other provisions of a plan or proposed plan. Therefore to generate greater awareness and protection for historic heritage it would be advantageous for historic heritage to be recognised at national and regional as well as local government level. All organisations involved in historic heritage management require clear roles and responsibilities rather than the freedom to define those roles independently. When historic heritage becomes a ‘matter of national importance’ in the RMA there will be further reason
for a National Policy Statement to be considered. Ideally, a National Policy Statement for historic heritage would be a mandatory policy statement similar to the New Zealand Coastal Policy Statement. Such a policy statement could provide clear roles and historic heritage management functions that each level of government could perform. Legislative mechanisms are available for the production for such a document. It is the responsibility of central government to determine whether or not a National Policy Statement is required.

In the event of the development of a National Policy Statement for historic heritage, a concern is the possibility that local authorities will simply paraphrase the document rather than address local issues, as found by Neave (1981) and Nuttall and Ritchie (1995). Paraphrasing appears symptomatic of an absence of expertise at a local level. Therefore the statement would be generic like the RMA itself and open to varied interpretation at the local level. To overcome this problem it would be in the interests of local authorities to employ historic heritage professionals.

The third problem evident from the results presented in this thesis is that inadequate knowledge and lack of expertise at the local government level has led to the widely manifest perception that the archaeological authority process of the HPA 1993 and the resource consent process of the RMA are duplicated. The two primary pieces of legislation are appropriate mechanisms for the protection of archaeological information. It appears that the system is failing on the basis that confusion concerning use of the Acts is due to lack of experience or knowledge regarding the role each Act plays in archaeological resource management. If a resource consent applicant can be made aware of potential archaeological values they are able to employ an archaeological consultant or approach the NZHPT for assistance at the outset of their proposed activity. As resource consent applications are processed at the local level, local authorities require adequate information on archaeological resources in their district so that they can make applicants aware of their obligations under the HPA 1993. Similarly, problems with the notification/non-notification of resource consents and the failure of local authorities to identify the NZHPT or iwi as affected parties can be overcome if councils have archaeological information available. Archaeological sites, or the potential for as yet undiscovered archaeological sites may also be ascertained if iwi are consulted, the NZHPT is considered an affected party, or if the council directs a developer to the NZHPT. Ideally district plans will include rules regarding specific historic heritage places and preferably areas or zones of potential historic heritage significance that are recorded on planning maps. Such areas or zones incorporated into council overlay maps mean that archaeological sites or the
potential for as yet undiscovered archaeological sites are taken into account at the resource consent processing phase.

Fourthly, heritage protection authorities rarely use the Heritage Order provisions of the RMA and the HPA 1993 due to concerns that a Planning Tribunal will find them liable for compensation or purchase should a heritage order have created undue hardship or rendered a property beyond reasonable use. Vossler (1993) believes that for the concept of reasonable use to be regarded by the Planning Tribunal a specific definition or qualification of this term or certain legal criteria or tests of “reasonableness” and/or “hardship” need to be incorporated into the RMA. This is related to the issue of private property rights. The generous rights of appeal granted under the RMA are reflective of New Zealanders’ attitudes toward private property. New Zealanders’ private property rights have persisted to impinge legislators’ ability to protect historic heritage on private property. Instead it is the objective of historic heritage management organisations to advocate protection rather than enforce it. Therefore advocates are required at a local level. Support could come through local authorities provided they have the knowledge and skill base to do so. At this stage it appears many local authorities do not. The result is that historic heritage agencies have to advocate and promote the value of historic heritage to local authorities. A shift in public attitude toward what is appropriate for the public good is required before this problem may be overcome.

Finally, scheduling items in plans does not necessarily protect them. Similarly NZHPT Registration does not provide legal protection for archaeological sites. Scheduling in plans will not protect archaeological resources unless rules are written to this effect. The RMA is enabling rather than restricting. Section 9 for example, prohibits using land in a way that contravenes rules in the district plan unless it is permitted through a resource consent. At present rules are relatively permissive.

7.3 Archaeological Information

Chapter Four described the types of archaeological information available to local authorities. Concern was expressed in the early years that local authorities could include and remove historic heritage items from registers and schedules at will. Under the present system councils still have that power. This study has found that at present, although all councils operate under the same legislative framework, a number had not considered archaeological resources. In addition many councils failed to recognise that they have a mandate to include archaeological sites other than those Registered by the NZHPT. At present there is a lack of mandate to
include other recorded archaeological sites, and one excuse has been the paucity of accurate archaeological information available to councils. At present there are a number of problems associated with the sources and quality of archaeological information available.

This study has highlighted the variation in the types and ways local authorities deal with archaeological information. Deficiencies are inherent with all sources of archaeological information currently available to local authorities. Both the NZAA and the NZHPT are currently undertaking projects to upgrade information. Local authorities have generally accepted the NZHPT Register as the primary source of historic heritage information available to them. Although, greater awareness of the NZAA Site File is being generated through the NZAA Site Recording Scheme Upgrade Project. Many local authorities have recognised that NZAA Site File data is currently inadequate for incorporation into council records. Many have neglected to consider the matter further. The most effective way in which councils can acquire accurate, up to date archaeological information is through the NZAA Site Recording Scheme Upgrade Project. Through this means councils will be provided with accurate locational detail, current site condition, landowner and tangata whenua details all of which are essential for local authority management and protection of archaeological resources.

An appropriate way for councils to incorporate archaeological data into plans is through the application of an overlay in planning maps accessible in a GIS. A heritage overlay essentially provides a predictive model of heritage areas or the likely location of archaeological sites. Archaeological overlays are developed by mapping known archaeological sites and highlighting areas where concentrations of sites exist. An overlay provides basic information to both resource consent applicants and council staff, and enables the consideration of historic heritage values at the outset of the resource consent process.

The recommended way of incorporating archaeological information into local authority records is by using NZAA Site File and reference numbers assigned to archaeological sites. With regard to NZAA Site File site numbers, some councils have chosen to index archaeological sites in their own way; a practice that has the potential to create confusion particularly with regard to cross-referencing data. Continued updating of records and the incorporation of new information into council schedules and databases is an ongoing process that local authorities need to undertake. As the NZAA Site File is increasing councils must update their records on a regular basis. If completed systematically this task should not be an onerous one. In many districts NZAA Site File growth is not overwhelming, for example the
Tasman District has experienced a two percent growth in the number of sites recorded in district in the past three years.

Although some councils, the Auckland Regional Council (ARC) for example, are currently undertaking further archaeological survey and implementing archaeological site monitoring systems, this study has found that the majority of councils have not initiated any systematic approach to monitoring of the condition of archaeological resources. There is insufficient continued information gathering and survey of areas previously unrecorded by archaeologists. To fulfil their obligations under the RMA local authorities need to recognise current deficiencies of recorded archaeological information and the nature of archaeological sites as a resource. Councils should actively participate in updating and furthering their own records and monitoring the state of historic heritage resources in their district. They have a requirement to do so under section 35 of the RMA.

7.4 Roles for Government

Devolution of decision making has placed local authorities at the forefront of historic heritage management today. Although not widely recognised by the community and often by the councils themselves, local authorities have a responsibility for the management protection and promotion of historic heritage at a local level. The principal focus of this thesis was the identification of the role local authorities currently perform in historic heritage management. Chapters Five and Six highlighted some of the inadequacies of local authority historic heritage management practice. The results presented in this thesis provide a number of reasons why the current system would have to undergo significant changes before local authorities should be provided with greater responsibility for historic heritage and archaeological resource management.

Central Government level

Nationally successive central governments have not prioritised historic heritage. This is clearly evident in the absence of national funding and policy for historic heritage management. The lack of incentive to preserve historic heritage manifests itself at every level of governance. For a comprehensive system of historic heritage management to be developed central government is obligated to take responsibility politically, legislatively and financially. A greater emphasis needs to be placed on the value of preserving historic heritage for future generations and as a factor contributing to our national identity. The gradual inclination
toward the importance of developing a national identity has been evident for a century. Throughout the century decision making power has been devolved to a local level. Without a key national policy for historic heritage local authorities will continue to perceive a lack of government support for historic heritage values, and they will continue to sideline the implementation of effective policies for historic heritage management.

An absence of standards, guidance, and monitoring of performance has resulted in a wide variety of approaches being taken by organisations involved in historic heritage management throughout the country. This thesis has demonstrated that councils require a central agency, guidance and standards to be developed and implemented on a national scale. Neave (1981:23) found that when a model ordinance was placed in the Town and Country Planning Act 1953 the majority of the councils surveyed 'had ordinances which were either shorter, the same as, or similar to the provisions of the model ordinance'. Such guidance needs to be designed in order that councils will adapt the model to local issues without taking the wide variety of approaches to historic heritage management that occur at present. In addition, smaller local authorities unable to financially support appropriate historic heritage management strategies and staff require funding to obtain information and technical expertise for historic heritage management.

Central government requires a link to historic heritage. Currently this is achieved through the Ministry for Culture and Heritage which administers the HPA 1993. At present the NZHPT is a non-governmental corporate body, however, to be effective the organisation requires greater central government funding to fulfil its function under the HPA 1993 and to lead historic heritage management in the country.

Local Authority Level

Both planners and the community perceive a paucity of political will and support for historic heritage at the local level. This is a reflection of attitudes of both central government and the community. Local authorities require community support for historic heritage management at the local level. Enhanced national prioritising for historic heritage and increased community awareness of the value of historic heritage would increase local authority incentive to implement policies and rules for effective historic heritage management.

The results presented in this thesis demonstrate that local authority approaches to historic heritage management vary significantly. The information is stored and presented in various
ways. Some councils have included all NZAA information in their plans. Some have been selective. Many local authorities consider the NZHPT Register to be the only information that they are required to have regard for in their plans and policy statements. Many councils do not consider that the NZHPT Register may be a poor representative of archaeological sites. Local authorities need to recognise other sources of archaeological information for example the NZAA Site File and Iwi Planning Documents.

The way archaeological information is presented also varies greatly, as some include the information in GIS, some have lists and maps attached to their plans, and others have no official record. At present there is no uniformity. The quality of the information may differ greatly between regions depending on the sources of information and when it was compiled. There is insufficient historic heritage awareness, guidance and technical expertise at the local level. There are eighty-three local authorities, therefore it is difficult to monitor how each is performing particularly when there are no national guidelines or standards in place, and when each is interpreting the RMA individually.

Reasons why sites are destroyed include the fact that many developers are unaware of their legal obligations, or that archaeological sites even exist. To improve this situation archaeological sites, as a resource, must be given greater priority by councils. To initiate this it would be appropriate for historic heritage to be made a resource of national importance for which a National Policy Statement is prepared. It would also be advantageous for the penalties for destruction of archaeological sites to be more widely acknowledged in order to provide developers with incentive to have archaeological assessments completed.

The primary concern expressed by the majority of councils surveyed, and individuals interviewed, was funding. At a local level there are two competing arguments to consider when introducing funding incentives to protect historic heritage. Firstly, if there is compensation there is a chance that developers will try to maximise the value of their property; if there is a cost there is a chance that it may be saved. The second argument is that if there is compensation it may encourage people to come forward with information; if there is a cost people are encouraged to destroy sites before they are identified. If local authorities were to consider financial incentive for historic heritage preservation the allocation of funds could be assessed on a case by case basis.
Auckland Regional Council (ARC)

An example of a council actively involved in historic heritage management is the ARC which has developed a system that would be appropriate for other councils to emulate: a Cultural Heritage Inventory (CHI). The CHI is a computer database incorporated into the Council’s GIS. To gather information for the inventory numerous sources of information were combined including old district schemes, the NZHPT Register, and information from historical societies and museums. The NZAA Site File was used as a starting point for archaeological data gathering. From this, gaps were identified in the information, and these gaps have provided a focus point for further survey and research to be conducted, for example sites in the coastal marine area for which the ARC has particular responsibility (Sarah Ross pers.com 27/9/01). The ARC has also identified areas of potential development in order that territorial authorities can allocate funding toward surveying these priority areas throughout the Auckland region (Tatton 2001).

The CHI has three major components, a historic places inventory that contains heritage items, such as trees, buildings, maritime and archaeological sites; a bibliography of more than 4000 references including information such as archaeological survey reports and newspaper reports; and a contact list for agencies, consultants and iwi for the region. The CHI has the added advantage in that historic heritage data can be overlayed with other GIS data, such as cadastral boundaries and topographical data.

The CHI was developed in co-operation with the district and city councils of the region. It provides a regional overview of historic heritage resources and aids resource consent processing at the local level. Initially territorial authorities in the Auckland region were presented with a paper copy in the format of a technical publication including summaries of survey coverage, bibliographies and basic NZAA site information. The ARC is now moving toward providing each authority with a CD ROM of that data so that they can have more comprehensive data in a digitised format (Sarah Ross pers.com 27/9/01). There are problems associated with territorial authority management of the historic heritage resource. A primary problem is misinterpretation of information, as territorial authorities do not employ historic heritage staff. As the CHI requires ongoing maintenance and updating a further problem exists if this is to be completed at the territorial authority level.

The ARC provides an example of a council that is actively involved in historic heritage management. This has been achieved through collaboration with territorial authorities and
historic heritage management organisations. Its success can be attributed to the Council’s initiative to employ historic heritage staff including archaeologists, an option that may not be viable for many of the smaller local authorities in the country.

7.5 Consultants

Today the majority of archaeological work is carried out in a resource management capacity. The current legislative and economic framework has produced an independent historic heritage consultant industry. The industry is a relatively new phenomenon prior to which universities, museums and organisations such as the NZHPT carried out the majority of archaeological work. At present, as in the past, historic heritage management and protection relies on a great deal of voluntary work. It is often primarily due to proactive, key individuals operating at a local level that historic heritage is protected at all.

A number of problems currently exist with the archaeological consultant sector. Consultants are independent of any institution. There are no professional standards or minimum qualification required to become an archaeological consultant. Developers often employ archaeological consultants, therefore consultants become subject to developer/employer pressures. For these reasons improvements are required in the area of quality control and the monitoring of consultants. Although codes of ethics have been developed these are not enforced. A minimum qualification should be required, as well as a set of national standards and a practice guideline. The NZHPT maintains some ability to regulate the quality of archaeological consultants; through the archaeological authority application process they require a standard of archaeological practice. Archaeological site assessments may have to stand up to Environment Court scrutiny, and ‘[l]egal interpretations are likely to be more narrow and literal than those of the heritage profession’ (Allen 1998:27). For the credibility of the archaeological consultant sector to be maintained professional standards of practice and a way of monitoring archaeological work need to be developed. A central government agency would be an appropriate mechanism for this purpose.

Assessing the significance of historic heritage is a subjective process. Archaeologists value the information they obtain through the destruction of the archaeological record rather than the preservation of archaeological sites as a remnant of the past. The HPA 1993 reflects this attitude. Significance needs to be assigned from a number of perspectives. Theoretically this should be achievable under the current community participation focus, developed under the consultation processes, dictated by the RMA. ‘The nature of heritage as a cultural expression,
means that the value and significance of heritage characteristics can to a certain extent only be understood by people who share that culture and among whom it has a “common value” (Mosley 1999:90). Maori participation in assessing the significance of archaeological sites for Maori is vital. Tangata whenua have been provided with a greater role in the management of historic heritage, this needs to be more widely acknowledged.

Unfortunately at present the archaeological information gained through assessment and investigation is not reaching local communities which, it may be argued, would most benefit from such knowledge. This was particularly evident from the interviews conducted with members of ‘interest groups’ interviewed in the Queenstown Lakes district. Upon studying human heritage management in New Zealand Jannelle Warren-Findley (2001:17) found that ‘basic research is being presented to the public in various formats, but not widely applied to the interpretation of land-based heritage sites; that is, archaeological, Maori or historic sites.’ There are a number of reasons for this, including time lag, academic writing and the limited publication of such information. Archaeological consultants are provided with a role in advocating the value of historic heritage at a local level. This will create greater workload and is advantageous for the industry which, in turn, could come to support a greater number of historic heritage professionals.

7.6 Community

Not only are local authority provisions for the protection and management of historic heritage a reflection of legislative mechanisms and national government support, they are a reflection of community values. The devolution of decision making from central to local government has been successful in creating councils that are a reflection of dominant community values. However, for bicultural heritage management to be successful this country needs to witness a widespread respect for more than one value system. ‘Ultimately there can only be one valid reason for conserving heritage places: they are valued by elements of a community, by a whole community or our society as a whole’ (Pearson and Sullivan 1995:17). Political will to protect historic heritage can be lacking at the local level due to councils need to support their dominant communities. In the Tasman district example, the council was forced to remove historic heritage management provisions in the plan on the basis that they inhibited farming, the mainstay of the economy. In competition with economic values historic heritage stands to lose.
If the community does not value historic heritage, councils will fail to implement policies to protect historic heritage. At present there is insufficient community support for historic heritage management and protection, or awareness of its value. Until this occurs historic heritage protection is limited. If councils are the agencies ultimately provided with the role of protecting historic heritage, educating communities of the value of historic heritage in society and for future generations is the only way protection will be achieved.

'The only way to get widespread permanent change in the way individuals see and manage their environment is through a change in ethic. Education therefore, has a vital role to play in these issues' (Upton 1996:9).

It cannot be expected that communities will appreciate something if they remain oblivious to its value. New Zealanders require historic heritage education in order to value its preservation for present and future generations. Education can be achieved through central government led education programs in schools. Mane-Wheoki (1995:2) asks:

'Why is it more important for New Zealand students to learn about the Sistene Chapel [...] before they know about our own physically accessible, culturally meaningful national treasures? Given that education is propaganda, that education is social engineering, what kind of affirmation is at work here, and what kind of denial?'

At the local level, local authorities can undertake community education programmes. Archaeological consultants and historic heritage management organisations such as the NZHPT also play an important role in the provision of information to communities. Positive feedback and information on archaeological investigation and assessment will generate greater public awareness.

7.7 Conclusion

This thesis has examined the present system of historic heritage management in New Zealand with the aim of determining whether it would be appropriate for local authorities to be given greater responsibility for historic heritage, particularly archaeological sites. The principle conclusion of this thesis is that local authorities are not currently in a position to be given greater responsibility for managing historic heritage. Local authorities have the potential to manage and protect historic heritage, however, at the present time there a number of factors inhibiting their ability to do so. The above discussion highlights the fact that problems with the current system of historic heritage management in New Zealand are complex. There is no single factor that can be identified and solved immediately. There are a number of improvements that can be made to all aspects of the historic heritage management system at present, particularly local authority practice, in order for local authorities to be in a better
position to be given a greater role in historic heritage management in the future. These problems require further consideration before the legislative changes enabling local authorities a greater role in historic heritage management can be implemented.

The research presented in this thesis has shown that although all local authorities are operating under the same legislative framework there has been a variety of approaches to historic heritage management. At one end of the scale there are councils who play no active role in historic heritage management. The majority of councils who responded to this survey however, believed that they were provided with a mandatory role in historic heritage management under the RMA. Historic heritage is only one of many aspects of people’s concept of their individual heritage. For this reason it is advantageous to have communities decide which places they value. Theoretically this is what devolution of decision making and planning legislation was written to enable and encourage. However knowledge, expertise and experience of historic heritage management is not something all local authorities currently possess. Therefore, it is necessary to maintain a central agency, such as the NZHPT, to guide and monitor local authority historic heritage management policy and practice. It is important that our history reflects the variety of the nation’s cultures. New Zealand needs to protect items that represent ‘a more reflective ‘history’ as a necessary corrective to the selective interpretations and uncritical nostalgia of ‘heritage’ (Davison 1991:12).

Throughout the history of legislative development in New Zealand decision making power has been devolved. Local authorities are currently at the forefront of historic heritage management at the local level without the resources and technical expertise required to fulfil their mandate under the RMA. Therefore they are failing to interpret and implement appropriate policies for historic heritage protection. Local authorities have a role to play although this role is not widely recognised. ‘While heritage remains a secondary objective of the Resource Management Act its usefulness will continue to be limited’ (Allen 1998:49). The general perception of local authorities and communities is that historic heritage management is the function of the NZHPT. Local authorities were almost given a greater statutory role in archaeological resource management through the Resource Management Amendment Bill 1999. The implications this may have had for archaeological site protection were not fully evaluated. A review of the Resource Management Amendment Bill 1999 has been undertaken. The recommendations of the Local Government and Environment Committee are to strengthen historic heritage management provisions under the RMA and maintain the archaeological provisions under the HPA 1993.
At this stage local authorities are too close to community concerns to adequately manage and protect historic heritage resources. The dominant voice in a community is the one that local authorities represent. Local authorities are supporting communities that do not value historic heritage. Devolution of historic heritage provisions to local authorities in the hope that heritage preservation will reflect the local community values is a false hope. Some intervention on a national scale is required as it is only at this level that the societal benefit of preserving historic heritage can be considered in perspective. Local authorities are not making long term planning decisions, they cannot envision the long term benefit of preserving historic heritage resources, often they can only consider the short term cost of heritage. Historic heritage information, including archaeological information, is available to local authorities. Local authorities must accept that such information incurs a cost. Before local authorities will accept that cost historic heritage needs to be valued by the community. At present historic heritage is considered a cost to society and the communities within which those resources are located. Heritage is unevenly distributed throughout the country and is not proportional to the rates base of a district. Education of communities and the development of a value system, which incorporates historic heritage, will need to be undertaken before local authorities will have the motivation to appropriately manage and protect historic heritage. When historic heritage is truly valued by the public it will gain fiscal value.

Significant changes in societal attitudes are required before local authorities will be in a position to manage historic heritage appropriately. Only when the nation is educated in the value of historic heritage will council plans come to reflect this by increasing rules, plan provisions and incentives for historic heritage protection. For the time being, local authorities need to develop accurate archaeological and historic heritage information systems so that they can begin to fulfil the role they have been provided with under the present legislation. Local authorities will not be appropriate managers of historic heritage until there are national standards and guidelines encouraging them to recognise historic heritage resources. Government support, clear roles and a central government agency are required. In addition central Government needs to express support for historic heritage management and protection by providing funding and technical support, and stronger legislative provision. At present local authorities are struggling with the role they have been given. If they are unable to fulfil the role they have been provided with at present, as this research has demonstrated, local authorities are clearly not in a position to be given greater responsibility for historic heritage management and protection in the near future.
SELECTED BIBLIOGRAPHY


INDIVIDUALS CONSULTED

This list does not include individuals who were formally interviewed, and who remain anonymous.

Ian Barber, Lecturer, Department of Anthropology, University of Otago

Lynda Bowers, Manager, NZAA Site Recording Scheme Upgrade Project

John Coster, Heritage management consultant and former Chair of INZA

Rick McGovern-Wilson, Senior Archaeologist, NZHPT

Elizabeth Cox, Heritage Policy Analyst, NZHPT

Mary O’Keeffe, Historic heritage consultant and Chairperson of ICOMOS New Zealand Committee

Ian Lawlor, Senior Archaeologist, Auckland Regional Council

Nigel Prickett, Archaeologist, Auckland Museum

Sarah Ross, Archaeologist, Auckland Regional Council

Tony Walton, Archaeologist, Science and Research Unit, DOC
APPENDICIES

Appendix One: Questionnaire Regarding the Role of Local Authorities in the Management and Protection of Historic Heritage.

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<th>Council:</th>
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<tr>
<td>Name of person completing questionnaire:</td>
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<td>Position:</td>
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<td>Contact Phone Number/ email:</td>
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What is the role of the council in the management and protection of heritage?

How many archaeological sites are included in the council's plan and who provided the council with that information?

How many wahi tapu/ wahi tapu areas/ wahi taonga are included in the council's plan and who provided the council with this information?
What is your relationship with the following organisations and how have they assisted in the development of historic heritage provisions in the plan?

- The Historic Places Trust
- The New Zealand Archaeological Association
- The Department of Conservation
- Iwi organisations

How is information on archaeological sites held?

GIS
Lists
Maps
Other (please state)

Does the public have easy access to this information?

Has the public had any response or input into the development of the historic heritage provisions in the plan?
Has the council developed any provisions for compensation should an archaeological site prevent a proposed change to the land use?

Do you think the current legislation, particularly the Resource Management Act 1991 and the Historic Places Act 1993, are adequate for the protection of historic heritage?

What are the strengths/weaknesses of the current legislation?

Do you feel there are too many organisations responsible for the protection and management of historic heritage at present?

Whose role do you think historic heritage management should be?

How do you feel about the government’s proposal to give greater responsibility for heritage protection and management to local bodies?

Can you suggest any further matters you think may be of relevance to this research topic?
Appendix Two: Structured Interview Questions

Questions for those who have applied for an archaeological authority under section 11 or 12 of the HPA 1993

1. How did you find out about the requirement for an archaeological authority under section 11 or 12 of the Historic Places Act 1993?

2. Did the council provide you with information and guidance regarding cultural heritage?

3. How early on in the planning process did you apply for an archaeological authority?

4. Did you find the process satisfactory and how do you think it may be improved?

5. Did you request or receive any compensation for any inconvenience the archaeological site incurred?

6. How do you feel about the role the council has played in this process?

Questions for individuals representative of an interest group

1. What role do you believe the council plays in the management of heritage in the district?

2. Are you happy with the way the council is managing heritage resources in the district?

3. How would you like to see the situation improved?

4. Are you aware of the provisions for the protection and management of heritage in the district plan?

5. Have you made any submissions in regard to the heritage component of the district plan?

6. Have you ever accessed any of the information the council has on archaeological sites in the district and did you find the quality of the information adequate?
Additional questions: Views and knowledge of heritage management

1. What does the term heritage mean to you?

2. Are you aware of the following institutions and their role in heritage management and protection, what do you perceive their role to be
   - NZAA
   - HPT
   - DOC
   - Iwi
   - Any historical societies

3. Do you think that there are too many organisations involved in the protection of heritage?

4. Have you ever requested information on archaeological sites from the HPT, DOC, iwi or the NZAA?

5. Do you believe developers should be compensated for any archaeological investigations and by whom?
Appendix Three: Newspaper articles relating to archaeological investigations in Queenstown (2000)

Mirror 2/2/2000 ‘Talk of the town’.

Otago Daily Times, 19/1/2000. ‘Archaeologists strike it lucky at casino site’

Otago Daily Times, 26/1/2000. ‘Mayor upset by bill for $25,000’

Otago Daily Times, 27/1/2000. ‘Past and future conflict on building site’

Otago Daily Times, 31/1/2000. ‘Important urban dig unearths treasures’

Otago Daily Times, 31/1/2000. ‘Cost user pays – archaeologist’

Otago Daily Times, 5/2/2000. ‘Passing Notes’

Southland Times, 19/1/2000. ‘Wicked Willies reveals relics’

Southland Times, 25/1/2000. ‘Big dig reveals historic treasures’

Southland Times, 27/1/2000. ‘Trust hits back after Cooper criticises digs’