

House of Representatives

Supplementary Order Paper

Tuesday, 16 October 2012

Heritage New Zealand Pouhere Taonga Bill

Proposed amendments

Hon Christopher Finlayson, in Committee, to move the following amendments:

Clause 4

In *clause 4(d)*, after “sites,” (line 32 on page 6), insert “wāhi tūpuna.”

Clause 5

In *clause 5(d)*, replace “registration” (line 8 on page 7) with “inclusion on the Record”.

In *clause 5(d)*, after “areas,” (line 9 on page 7), insert “wāhi tūpuna.”

In *clause 5(e)*, replace “.” (line 12 on page 7) with “; and”.

After *clause 5(e)* (after line 12 on page 7), insert:

- (f) provides for the establishment and maintenance of the National Historic Landmarks List by Heritage New Zealand Pouhere Taonga.

Clause 6

In *clause 6*, definition of **harm**, after “historic area,” (lines 28 and 29 on page 8), insert “wāhi tūpuna.”

In *clause 6*, definition of **harm**, after “place, area,” (lines 31, 33 and 34, and 35 on page 8), insert “wāhi tūpuna,” in each place.

In *clause 6*, definition of **public notice**, paragraph (a), after “historic area,” (line 7 on page 10), insert “wāhi tūpuna.”

In *clause 6*, delete the definition of **Register** (line 13 on page 10).

In *clause 6*, delete the definition of **registered place** (line 18 on page 10).

In *clause 6*, insert in their appropriate alphabetical order:

- common marine and coastal area** has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

protected customary right has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

Record means the Record required by **section 63** for the purposes of **Part 4**

wāhi tūpuna means a place important to Māori for its ancestral significance and associated cultural and traditional values, and a reference to wāhi tūpuna includes a reference, as the context requires, to—

- (a) wāhi tūpuna:
- (b) wāhi tupuna:
- (c) wāhi tipuna

Clause 7

In *clause 7(b)(i)*, after “protection of” (line 16 on page 11), insert “wāhi tūpuna,”.

In *clause 7(b)(i)*, after “wāhi tapu” (lines 16 and 17 on page 11), insert “;”.

In *clause 7(b)(i)*, replace “registering,” (line 19 on page 11) with “entering wāhi tūpuna, wāhi tapu, and wāhi tapu areas on the Record,”.

In *clause 7(b)(i)*, replace “wāhi tapu” (line 20 on page 11) with “wāhi tūpuna, wāhi tapu,”.

In *clause 7(f)*, replace “wāhi tapu” (first mention on line 35 on page 11) with “wāhi tūpuna, wāhi tapu,”.

Replace *clause 7(h)* (lines 4 to 7 on page 12) with:

- (h) in **sections 66, 67, 73, and 74**, for the involvement of the Council in determining applications to enter wāhi tūpuna, wāhi tapu, and wāhi tapu areas on the Record; and

Replace *clause 7(i)* (lines 9 to 13 on page 12) with:

- (i) a power for the Council to make recommendations to relevant local authorities in respect of wāhi tapu areas entered on the Record under **Part 4** and a duty on local authorities to have particular regard to such recommendations; and
- (ia) a requirement that matters be referred to the Council before any action is taken in respect of certain applications concerning or affecting a wāhi tapu area entered on the Record; and
- (ib) the role of the Council in reviewing or varying the inclusion of wāhi tūpuna, wāhi tapu, or wāhi tapu areas on the Record, or removing entries from the Record.

Clause 11

In *clause 11(1)(a)*, replace “register,” (line 26 on page 13) with “enter on the Record,”.

In *clause 11(1)(a) and (b)*, after “historic areas,” (lines 27 and 31 on page 13), insert “wāhi tūpuna,”.

In *clause 11(1)(c)*, delete “registration,” (line 34 on page 13).

In *clause 11(1)(c)*, after “of them” (line 35 on page 13), insert “, and entering such places on the Record”.

Replace *clause 11(1)(d)* (lines 1 to 7 on page 14) with:

- (d) to provide information, advice, and assistance for identifying, recording, investigating, assessing, protecting, and conserving historic places, historic areas, wāhi tūpuna, wāhi tapu, and wāhi tapu areas, entering such places and areas on the Record, and providing support for persons with a legal or equitable interest in such places and areas:

In *clause 11(1)(e)*, replace “.” (line 11 on page 14) with “:”.

After *clause 11(1)(e)* (after line 11 on page 14), insert:

- (f) to provide advice in the event of a national or local emergency that impacts on heritage matters:
- (g) to establish and maintain a list of places of outstanding national heritage value, to be called the National Historic Landmarks List.

Replace *clause 11(2)* (lines 12 to 15 on page 14) with:

- (2) The Minister must not give directions to Heritage New Zealand Pouhere Taonga that are statutorily independent, namely, directions concerning heritage matters that relate to particular historic places, historic areas, wāhi tūpuna, wāhi tapu, or wāhi tapu areas.
- (3) However, **subsection (2)** does not apply to the powers of the Minister under **subpart 2 of Part 4** (which provides for the National Historic Landmarks List).

Clause 12

In *clause 12(1)(b)*, delete “register,” (line 21 on page 14).

In *clause 12(1)(b)*, after “protect,” (line 21 on page 14), insert “enter on the Record,”.

In *clause 12(1)(b)*, after “historic areas,” (line 22 on page 14), insert “wāhi tūpuna,”.

In *clause 12(1)(d)*, after “any” (line 29 on page 14), insert “wāhi tūpuna,”.

In *clause 12(1)(d)*, after “wāhi tapu” (first mention on line 29 on page 14), insert “,”.

In *clause 12(1)(f)*, after “appropriate,” (line 2 on page 15), insert “wāhi tūpuna,”.

In *clause 12(1)(f)*, after “wāhi tapu” (first mention on line 2 on page 15), insert “,”.

In *clause 12(1)(h)*, after “of a” (line 9 on page 15), insert “wāhi tūpuna,”.

In *clause 12(1)(h)*, after “tapu” (first mention on line 10 on page 15), insert “,”.

In *clause 12(1)(i)*, after “to a” (line 12 on page 15), insert “wāhi tūpuna,”.

In *clause 12(1)(i)*, after “tapu” (line 12 on page 15), insert “,”.

In *clause 12(1)(j)(i) and (ii)*, after “historic area,” (lines 17, 19, and 22 on page 15), insert “wāhi tūpuna.”

Clause 14

In *clause 14(2)*, replace “**3 and 4**” (line 2 on page 18) with “**2 and 3**”.

In *clause 14(2)*, after “**Part 3**” (line 2 on page 18), insert “**and Part 4**”.

Clause 15

In *clause 15(1)(b)(i)*, replace “**3 and 4**” (line 28 on page 18) with “**2 and 3**”, and after “**Part 3**” (line 28 on page 18), insert “**and Part 4**”.

In *clause 15(1)(b)(ii)*, replace “.” (line 31 on page 18) with “:”.

After *clause 15(1)(b)(ii)* (after line 31 on page 18), insert:

- (iii) for the administration of the Record, and the process of making entries on it, under **Part 4**.

Clause 18

In *clause 18(2)(d)*, replace “registration” (line 20 on page 20) with “entries on the Record”.

In *clause 18(2)(e)*, replace “a registration” (line 21 on page 20) with “an entry on the Record”.

In *clause 18(2)(j)*, delete “or grant interim registration under **section 68**” (lines 29 and 30 on page 20).

Clause 24

Replace *clause 24(a)* (lines 24 to 27 on page 23) with:

- (a) to ensure that, in the protection of wāhi tūpuna, wāhi tapu, wāhi tapu areas, and historic places and historic areas of interest to Māori, Heritage New Zealand Pouhere Taonga meets the needs of Māori in a culturally sensitive manner:

In *clause 24(b)*, after “conservation of” (line 29 on page 23), insert “wāhi tūpuna.”

Replace *clause 24(f)* (lines 10 and 11 on page 24) with:

- (f) to consider and determine suitable applications to enter wāhi tūpuna, wāhi tapu, and wāhi tapu areas on the Record:

In *clause 24(g)*, delete “the registration of” (line 12 on page 24).

In *clause 24(g)*, after “Māori” (line 13 on page 24), insert “to be entered on the Record”.

Clause 25

Delete *clause 25(3)* (lines 1 to 7 on page 25).

Clause 37

Replace *clause 37(1)* (lines 12 to 16 on page 29) with:

- (1) Heritage New Zealand Pouhere Taonga may enter into a heritage covenant with the owner, or with the lessee or licensee, of a historic place, historic area, wāhi tūpuna, wāhi tapu, or wāhi tapu area to provide for the protection, conservation, and maintenance of the place, area, wāhi tūpuna, wāhi tapu, or wāhi tapu area.

In *clause 37(3)*, after “area,” (line 26 on page 29), insert “wāhi tūpuna,”.

In *clause 37(6)*, definition of **parties**, *paragraphs (a) and (b)*, after “historic area,” (lines 15 and 16 and 17 and 18 on page 30), insert “wāhi tūpuna,”.

Clause 38

In *clause 38(2)(a)*, after “area,” (line 26 on page 30), insert “wāhi tūpuna,”.

Clause 40

In *clause 40(1)(a)*, replace “Register” (line 19 on page 31) with “Record”.

Clause 42

In *clause 42(1)(a)*, after “recorded” (line 15 on page 32), insert “archaeological”.

Clause 57

In *clause 57(1)(a)(vi)*, after “sites,” (line 11 on page 45), insert “wāhi tūpuna,”.

Part 4

Replace *Part 4* (line 20 on page 49 to line 38 on page 63) with:

Part 4

**Record to provide recognition for places of
historical, cultural, and ancestral significance**

Subpart 1—Provisions relating to Record

Record established

63 Record

- (1) Heritage New Zealand Pouhere Taonga must continue and maintain the Record, which succeeds the register established under section 22 of the Historic Places Act 1993.
- (2) The purposes of the Record are—
 - (a) to inform members of the public about historic places, historic areas, wāhi tūpuna, wāhi tapu, and wāhi tapu areas:
 - (b) to notify the owners of historic places, historic areas, wāhi tūpuna, wāhi tapu, and wāhi tapu areas, as needed, for the purposes of this Act:
 - (c) to be a source of information about historic places, historic areas, wāhi tūpuna, wāhi tapu, and wāhi tapu areas for the purposes of sections 61, 66, and 74 of the Resource Management Act 1991.

- (3) The Record must—
 - (a) separately identify historic places as—
 - (i) Category 1: places of special or outstanding historical or cultural heritage significance or value; and
 - (ii) Category 2: places of historical or cultural heritage significance or value; and
 - (b) separately identify historic areas, wāhi tūpuna, wāhi tapu, and wāhi tapu areas.
- (4) The inclusion in, or removal from, the Record of details of historic places, historic areas, wāhi tūpuna, wāhi tapu, and wāhi tapu areas must be carried out in accordance with this subpart.
- (5) An entry in the Record relating to a historic place may include any chattel or object or class of chattels or objects that are—
 - (a) situated in or on that place; and
 - (b) considered by Heritage New Zealand Pouhere Taonga to contribute to the significance of that place; and
 - (c) nominated by Heritage New Zealand Pouhere Taonga.

Criteria for inclusion on Record

64 Criteria for entering historic place, historic area, or wāhi tūpuna on Record

- (1) Heritage New Zealand Pouhere Taonga may include any historic place or historic area in the Record if it is satisfied that the place or area has aesthetic, archaeological, architectural, cultural, historical, scientific, social, spiritual, technological, or traditional significance or value.
- (2) Heritage New Zealand Pouhere Taonga may assign the status of Category 1 or Category 2 to any historic place if it is satisfied that the place has special or outstanding significance or value in relation to 1 or more of the following criteria:
 - (a) the extent to which the place reflects important or representative aspects of New Zealand history:
 - (b) the association of the place with events, persons, or ideas of importance in New Zealand history:
 - (c) the potential of the place to provide knowledge of New Zealand history:
 - (d) the importance of the place to tangata whenua:
 - (e) the community association with, or public esteem for, the place:
 - (f) the potential of the place for public education:
 - (g) the technical accomplishment, value, or design of the place:
 - (h) the symbolic or commemorative value of the place:

- (i) the importance of identifying historic places known to date from early periods of New Zealand settlement:
 - (j) the importance of identifying rare types of historic places:
 - (k) the extent to which the place forms part of a wider historical and cultural complex or historical and cultural landscape.
- (3) Additional criteria may be prescribed in regulations made under this Act for the purpose of assigning Category 1 or Category 2 status to a historic place, provided they are not inconsistent with the criteria set out in **subsection (2)**.
- (4) The Council may include any wāhi tūpuna on the Record if it is satisfied that the wāhi tūpuna—
- (a) has strong traditional associations with 1 or more ancestors significant to an iwi or a hapū; and
 - (b) is integral to the identity or cultural wellbeing of the iwi or hapū; and
 - (c) is a distinct and cohesive place or area.
- (5) Additional criteria may be prescribed in regulations made under this Act for entering historic places or historic areas of interest to Māori, wāhi tūpuna, wāhi tapu, or wāhi tapu areas on the Record, provided they are not inconsistent with the criteria set out in **subsection (2)**.

Assessors

64A Independent assessors to be appointed

- (1) Heritage New Zealand Pouhere Taonga or the Council, as appropriate, must appoint 1 or more independent expert assessors to make recommendations to Heritage New Zealand Pouhere Taonga or the Council, as appropriate, if Heritage New Zealand Pouhere Taonga is the applicant under **section 65 or 66**.
- (2) Heritage New Zealand Pouhere Taonga or the Council, as appropriate, must have regard to the recommendations of the assessor.

64B Appointments

- (1) Before making an appointment under **section 64A**, Heritage New Zealand Pouhere Taonga or the Council, as appropriate, must be satisfied that the person to be appointed is recognised by his or her peers as an expert in a field relevant to the matters for which recommendations are required.
- (2) An assessor is not liable for advice or recommendations given in good faith under **section 64A**.

Provisions relating to historic places, historic areas, wāhi tūpuna, wāhi tapu, or wāhi tapu areas

65 Applications to enter historic places or historic areas on Record

- (1) Heritage New Zealand Pouhere Taonga or any other person may apply to Heritage New Zealand Pouhere Taonga to enter a historic place or a historic area on the Record.
- (2) An application—
 - (a) must include a legal description or, if one is not available, must describe the historic place or historic area or part of the historic place or area to which the application relates sufficiently to identify it; and
 - (b) in the case of an application relating to a historic place, may state a proposed category.
- (3) Heritage New Zealand Pouhere Taonga must decline an application if, after having regard to the matters it is required to consider under **section 64**, it considers that the application lacks sufficient merit.
- (4) If Heritage New Zealand Pouhere Taonga is satisfied that an application is supported by sufficient evidence, it must proceed to determine the application by—
 - (a) publicly notifying the application; and
 - (b) giving notice of the application to—
 - (i) every person that—
 - (A) is an owner of the historic place, historic area, or part of the historic place or area concerned; or
 - (B) has a registered interest in the historic place, historic area, or part of the historic place or area; and
 - (ii) the local authorities that have jurisdiction in the relevant area.
- (5) Despite **subsection (4)(b)**, Heritage New Zealand Pouhere Taonga is not required to give notice under **subsection (4)(b)(i)(A)** if Heritage New Zealand Pouhere Taonga—
 - (a) does not know, or cannot identify, the person from publicly available records; or
 - (b) does not know the person’s contact details and cannot identify them from publicly available records.
- (6) If the owner of a historic place, historic area, or part of a historic place or area receives a notice under **subsection (4)(b)(i)(A)**, the owner must give notice of the application to any occupier of the place or area or part of it.
- (7) The failure of an owner to notify an occupier under **subsection (6)** does not invalidate an entry on the Record.

- (8) If an application relates to a historic place, historic area, or part of a historic place or area on Māori land,—
 - (a) Heritage New Zealand Pouhere Taonga must give notice of the application to the appropriate Registrar of the Māori Land Court; and
 - (b) the court must record the effect of the application on the court record.
- (9) If an application relates to a historic place or historic area in the common marine and coastal area, Heritage New Zealand Pouhere Taonga must give notice of the application to the holders of any customary marine title or protected customary right applying in the same location.

66 Applications to enter wāhi tūpuna, wāhi tapu, or wāhi tapu areas on Record

- (1) Any person may apply to the Council to enter a wāhi tūpuna, wāhi tapu, or wāhi tapu area on the Record.
- (2) An application must—
 - (a) include a legal description or, if one is not available, describe the land on which the wāhi tūpuna, wāhi tapu, or wāhi tapu area or the part of the wāhi tūpuna, wāhi tapu, or wāhi tapu area is located sufficiently to identify it; and
 - (b) for a wāhi tūpuna or wāhi tapu, specify the general nature of the wāhi tapu; and
 - (c) for a wāhi tapu area, specify the general nature of the wāhi tapu included in the area.
- (3) The Council must decline an application if it considers that it lacks sufficient merit, having regard to—
 - (a) the criteria set out in **section 64(4)**, for an application relating to a wāhi tūpuna;
 - (b) the nature of the wāhi tapu, for an application relating to a wāhi tapu or wāhi tapu area.
- (4) If the Council is satisfied that an application is supported by sufficient evidence, the Council must proceed to determine the application by—
 - (a) publicly notifying the application; and
 - (b) giving notice of the application to—
 - (i) every person that—
 - (A) is the owner of the land on which the wāhi tūpuna, wāhi tapu, or wāhi tapu area or part of the wāhi tūpuna, wāhi tapu, or wāhi tapu area is located; or
 - (B) has a registered interest in the land on which the wāhi tūpuna, wāhi tapu, or wāhi

- tapu area or part of the wāhi tūpuna, wāhi tapu, or wāhi tapu area is located; and
- (ii) the appropriate iwi or hapū; and
 - (iii) the local authorities that have jurisdiction in the relevant area.
- (5) Despite **subsection (4)(b)**, the Council is not required to give notice under **subsection (4)(b)(i)(A)** if the Council—
 - (a) does not know, or cannot identify, the person from publicly available records; or
 - (b) does not know the person’s contact details and cannot identify them from publicly available records.
 - (6) If an owner of land on which a wāhi tūpuna, wāhi tapu, or wāhi tapu area is located receives a notice under **subsection (4)(b)(i)(A)**, the owner must give notice of the application to any occupier of the place.
 - (7) The failure of an owner to notify an occupier under **subsection (6)** does not invalidate an entry on the Record.
 - (8) If an application relates to a wāhi tūpuna, wāhi tapu, or wāhi tapu area on Māori land,—
 - (a) the Council must give notice of the application to the appropriate Registrar of the Māori Land Court; and
 - (b) the court must record the effect of the application on the court record.
 - (9) If an application relates to a wāhi tūpuna, wāhi tapu, or wāhi tapu area in the common marine and coastal area, the Council must give notice of the application to the holders of any customary marine title or protected customary right applying in the same location.

67 Procedure to determine applications

- (1) Any person may make a written submission on an application publicly notified under **section 65(4) or 66(4)**, including any of the following:
 - (a) the owner of the whole or a part of the historic place or historic area, or of the land on which the wāhi tūpuna, wāhi tapu, or wāhi tapu area is located;
 - (b) an occupier of the whole or a part of the historic place or historic area, or of the land on which the wāhi tūpuna, wāhi tapu, or wāhi tapu area is located;
 - (c) a person with a registered interest in the whole or a part of the historic place or historic area, or of the land on which the wāhi tūpuna, wāhi tapu, or wāhi tapu area is located;
 - (d) any body corporate engaged in, or having as one of its objects, the protection of New Zealand’s historical and cultural heritage:

- (e) the appropriate iwi or hapū;
 - (f) the local authorities that have jurisdiction in the relevant area.
- (2) Submissions must be made to Heritage New Zealand Pouhere Taonga or the Council, as appropriate, not later than—
- (a) 20 working days after the public notification of the application; or
 - (b) any longer period specified by Heritage New Zealand Pouhere Taonga or the Council in a particular case, but not longer than 40 working days after the public notification.
- (3) The Council may make any inquiries that it sees fit before deciding whether to enter a wāhi tūpuna, wāhi tapu, or wāhi tapu area on the Record.
- (4) If Heritage New Zealand Pouhere Taonga considers that a historic place or historic area proposed for inclusion on the Record is a site of interest to Māori, it must refer the application to the Council for its recommendation as to whether the historic place or area should be entered on the Record.
- (5) Before making a decision under this section,—
- (a) Heritage New Zealand Pouhere Taonga or the Council, as appropriate, must take all submissions into account; and
 - (b) for an application relating to a historic place, Heritage New Zealand Pouhere Taonga may—
 - (i) reconsider the category proposed for the place concerned; and
 - (ii) if it considers it appropriate to do so, alter the category.

General provisions relating to Record

- 73 Entries may be included on Record by agreement**
- Despite **sections 65(4) and 66(4)**, Heritage New Zealand Pouhere Taonga may enter the relevant historic place, historic area, wāhi tūpuna, wāhi tapu, or wāhi tapu area on the Record without giving public notice if—
- (a) Heritage New Zealand Pouhere Taonga or the Council, as appropriate, receives an application under **section 65 or 66**; and
 - (b) all the persons who have the right to be notified under **section 65(4)(b)(i) or 66(4)(b)(i) and (ii)** have agreed to the proposal.

74 When entry on Record takes effect

- (1) As soon as is reasonably practicable after making a decision under **section 67** or reaching an agreement under **section 73**, Heritage New Zealand Pouhere Taonga or the Council, as appropriate, must—
 - (a) publicly notify the entry of a historic place, historic area, wāhi tūpuna, wāhi tapu, or wāhi tapu area on the Record; and
 - (b) notify the entry to any person (including a local authority) with a right to be notified under **section 65(4)(b) or 66(4)(b)**; and
 - (c) notify the Maori Land Court if the entry on the Record relates to Māori land; and
 - (d) notify the holders of any customary marine title or protected customary right applying in the same location that a historic place, historic area, wāhi tūpuna, wāhi tapu, or wāhi tapu area has been entered on the Record.
- (2) The entry of a historic place, historic area, wāhi tūpuna, wāhi tapu, or wāhi tapu area on the Record takes effect on the date specified in the notices given under **subsection (1)(b)**.
- (3) The date specified in a notice must not be earlier than the date that is 10 working days after the date of the notice.

*Effect of certain entries on Record***75 When local authorities must have particular regard to recommendations**

- (1) For any historic area entered on the Record, Heritage New Zealand Pouhere Taonga may make recommendations to the local authorities with jurisdiction in the area where the historic area is located as to the appropriate measures that those authorities should take to assist in the conservation and protection of the historic area.
- (2) For any wāhi tapu area entered on the Record, the Council may make recommendations to the local authorities with jurisdiction in the relevant area as to the appropriate measures that those authorities should take to assist in the conservation and protection of the wāhi tapu area.
- (3) Local authorities must have particular regard to recommendations received under **subsection (1) or (2)** from Heritage New Zealand Pouhere Taonga or the Council, as the case may be.

76 Proposals affecting wāhi tapu areas entered on Record

- (1) **Subsection (2)** applies if Heritage New Zealand Pouhere Taonga—

- (a) is advised by a local authority that it has received an application for a resource consent in respect of a wāhi tapu area entered on the Record; or
 - (b) is considering an application that affects a wāhi tapu area made under—
 - (i) **section 42** (applications for authorities); or
 - (ii) **section 54(1)(b)** (authorisations to carry out exploratory investigations); or
 - (c) proposes to take any action in respect of a wāhi tapu area.
- (2) Before Heritage New Zealand Pouhere Taonga takes any action in respect of the application, it must—
- (a) refer the matter to the Council; and
 - (b) consult, as the case may require,—
 - (i) the local authorities with jurisdiction in the relevant area;
 - (ii) the applicant for the resource consent;
 - (iii) the person who applied under **section 66(1)** for the wāhi tapu area to be entered on the Record;
 - (iv) the appropriate iwi or hapū.
- (3) Not later than 15 working days after receiving a reference from Heritage New Zealand Pouhere Taonga under **subsection (2)(a)**, the Council must advise Heritage New Zealand Pouhere Taonga of any comment or recommendation it wishes to make on an application referred to it under this section.

Further requirements relating to Record

77 Information to be supplied to territorial authorities

- (1) Heritage New Zealand Pouhere Taonga must maintain, and supply to every territorial authority,—
- (a) a list of—
 - (i) the historic places, historic areas, wāhi tūpuna, wāhi tapu, and wāhi tapu areas located within that territorial authority’s district that are entered on the Record; and
 - (ii) the heritage covenants located within that territorial authority’s district that have effect in that area; and
 - (iii) the authorities granted under **subpart 2 of Part 3** (which relate to archaeological sites); and
 - (b) the details about the places or areas entered on the Record or the heritage covenants for inclusion in—
 - (i) any land information memorandum issued by the territorial authority under section 44A of the Local Government Official Information and Meetings Act 1987; and

- (ii) any project information memorandum issued by the territorial authority under section 34 of the Building Act 2004.
- (2) Each territorial authority must make the lists and details supplied under **subsection (1)** available for public inspection during its usual business hours.
- (3) **Subsection (4)** applies if a notice is given to a territorial authority under **section 65(4)(b)(ii), 66(4)(b)(iii), 74(1)(b), 80(6), or 81(b)** for the entry on, or removal from, the Record of a historic place, wāhi tūpuna, or wāhi tapu, or of a review of an entry.
- (4) For the purposes of section 34(4)(b) of the Building Act 2004 and section 44A(2)(g) of the Local Government Official Information and Meetings Act 1987, a notice given under **subsection (3)** is deemed to be information notified under this Act to a territorial authority by a statutory organisation with the power to classify land or buildings for any purpose.

79 Availability of Record

The Record must be available for public inspection—

- (a) on the Internet site of Heritage New Zealand Pouhere Taonga; and
- (b) during usual business hours, at the principal office of Heritage New Zealand Pouhere Taonga in Wellington and at its regional offices.

80 Review, variation, or removal of entries on Record

- (1) Heritage New Zealand Pouhere Taonga (in the case of a historic place or historic area) or the Council (in the case of a wāhi tūpuna, wāhi tapu or wāhi tapu area) may, at any time, review an entry on the Record relating to a historic place, historic area, wāhi tūpuna, wāhi tapu, or wāhi tapu area.
- (2) Any person may apply to—
 - (a) Heritage New Zealand Pouhere Taonga for a review of the entry of a historic place or historic area on the Record;
 - (b) the Council for a review of the entry of a wāhi tūpuna, wāhi tapu, or wāhi tapu area on the Record.
- (3) If a person applies for a review earlier than 3 years after the date when the entry was made on the Record or the last review of that entry, whichever is the later, Heritage New Zealand Pouhere Taonga or the Council, as the case requires, may reject the application in whole or in part, but only on the grounds that—
 - (a) the application does not disclose sufficient grounds to justify a review; or

- (b) the substance of the application or part of it has been considered by Heritage New Zealand Pouhere Taonga or the Council within the preceding 3 years.
- (4) An application for review must be made in the form and manner prescribed by regulations made under this Act or as approved by Heritage New Zealand Pouhere Taonga for the purpose.
- (5) An application for review must be determined by Heritage New Zealand Pouhere Taonga or the Council, as the case requires, not later than 12 months after the date of its receipt by Heritage New Zealand Pouhere Taonga or the Council.
- (6) If Heritage New Zealand Pouhere Taonga or the Council decides to review an entry on the Record, whether on its own initiative or as a result of an application, Heritage New Zealand Pouhere Taonga or the Council, as the case requires, must conduct the review in the same manner as if it were a proposal to make an entry on the Record under this subpart.
- (7) When a review is completed, Heritage New Zealand Pouhere Taonga or the Council, as the case requires, may—
 - (a) vary the entry on the Record; or
 - (b) remove the entry from the Record; or
 - (c) confirm the entry; or
 - (d) in the case of a historic place, change or confirm the category assigned to the historic place.
- (8) Heritage New Zealand Pouhere Taonga or the Council, as appropriate, must give notice to the applicant of a decision made under this section and the reasons for the decision.

81 Removal of entries on Record in cases of destruction or demolition

If a historic place, historic area, wāhi tūpuna, wāhi tapu, or wāhi tapu area is destroyed or demolished, Heritage New Zealand Pouhere Taonga or the Council, as the case requires,—

- (a) may, after making any inquiries that it sees fit, remove the entry of that historic place, historic area, wāhi tūpuna, wāhi tapu, or wāhi tapu area from the Record; and
- (b) must, as soon as practicable after removing that entry, give notice of its removal in writing to the local authorities with jurisdiction in the relevant area.

Subpart 2—National Historic Landmarks List

81A Interpretation

In this subpart,—

National Historic Landmarks List and **List** mean the National Historic Landmarks List provided for by this subpart
place means a historic place, historic area, wāhi tūpuna, wāhi tapu, or wāhi tapu area that is entered on the Record.

81B National Historic Landmarks List to be established

- (1) Heritage New Zealand Pouhere Taonga must establish and maintain a list of places of outstanding national heritage value, to be called the National Historic Landmarks List.
- (2) The purpose of the List is to promote—
 - (a) an appreciation of the places of greatest heritage value to the people of New Zealand; and
 - (b) the conservation of such places, including their protection from natural disasters, to the greatest extent practicable.
- (3) A place must not be included on the List unless it is of outstanding national heritage value, having regard to—
 - (a) the outstanding historical significance of the place in relation to people, events, and ideas of the past; or
 - (b) the outstanding physical significance of the place in relation to its archaeological, architectural, design, and technological qualities; or
 - (c) the outstanding cultural significance of the place to tangata whenua and other communities in relation to its social, spiritual, traditional, or ancestral associations.
- (4) A place must not be included on the List unless there is strong evidence of broad national and community support for its inclusion.
- (5) The List must not contain more than 50 places at any one time.
- (6) The List must be available for public inspection on the Internet site of Heritage New Zealand Pouhere Taonga.
- (7) The inclusion of a place on the List must be noted in the entry for that place on the Record.

81C How places may be included in List

- (1) The Minister may determine that a place is of outstanding national heritage value and is to be included on the List.
- (2) Before the Minister may make a determination under **subsection (1)**,—
 - (a) Heritage New Zealand Pouhere Taonga must recommend to the Minister, after consultation with the Council where that is appropriate, that a place—
 - (i) is of outstanding national heritage value; and
 - (ii) ought to be included on the List; and

- (b) the Minister must consult with the Minister of Māori Affairs and any other Minister that the Minister considers appropriate.
- (3) Before Heritage New Zealand Pouhere Taonga may make a recommendation to the Minister, it must—
 - (a) invite public submissions on a proposal to include a specified place on the List; and
 - (b) have regard to any submissions received.
- (4) Heritage New Zealand Pouhere Taonga must not propose that a place be included on the List unless it is satisfied that—
 - (a) the place is subject to appropriate legal protection; and
 - (b) the owner and every person with a registered interest in the place have given consent to the inclusion of the place on the List; and
 - (c) the owner has prepared an appropriate risk management plan approved for the purpose by Heritage New Zealand Pouhere Taonga.
- (5) The plan required by **subsection (4)(c)** must include details to establish—
 - (a) how the effects on the place of natural disasters are to be mitigated; and
 - (b) that the place will be managed to the highest practicable standard of care.
- (6) Nothing in this subpart affects the responsibilities of the owner of a place included on the List.

81D Review of List by Minister

- (1) The Minister may, from time to time, initiate a review of the places on the List and may—
 - (a) add a place to the List;
 - (b) remove a place from the List;
 - (c) modify the extent of a place that is on the List.
- (2) Before the Minister may conduct a review,—
 - (a) Heritage New Zealand Pouhere Taonga must provide a recommendation to the Minister for the purpose of a review under **subsection (1)**; and
 - (b) the Minister must consult the Minister of Māori Affairs and any other Minister that the Minister considers appropriate.
- (3) Before Heritage New Zealand Pouhere Taonga may make a recommendation, it must—
 - (a) invite public submissions on the review proposal; and
 - (b) have regard to any submissions received.
- (4) As soon as is reasonably practicable after the Minister has completed a review under **subsection (1)**, Heritage New

Zealand Pouhere Taonga must give public notice on its Internet site of the outcome of the review.

81E Owner may seek review

- (1) The owner of a place included on the List, or a person with a registered interest in such a place, may apply in writing to the Minister, in the form and manner approved for the purpose by the Minister, requesting that a review be conducted in relation to the inclusion of that place in the List.
- (2) Heritage New Zealand Pouhere Taonga must, not later than 12 months after the date that the request was received by the Minister,—
 - (a) conduct and complete the review; and
 - (b) provide a recommendation to the Minister.
- (3) After considering the recommendation of Heritage New Zealand Pouhere Taonga, the Minister must consult the Minister of Māori Affairs and any other Minister that the Minister considers appropriate.
- (4) After considering the recommendation given under **subsection (2)(b)**, the Minister may reject the application in whole or in part, but only if the application does not state sufficient grounds to justify a review.
- (5) The Minister must advise the owner of the place, and any person with a registered interest in it, of the outcome of the review.

Clause 83

In *clause 83(1)*, after “historic area,” (line 29 on page 64), insert “wāhi tūpuna,”.

In *clause 83(1)*, after “place, area,” (lines 31, 32, 34, and 35 on page 64 and lines 1 and 2 on page 65), insert “wāhi tūpuna,”.

Clause 88

Delete *clause 88* (lines 1 to 27 on page 67).

Clause 91

In *clause 91(1)(a)(ii)*, replace “or” (line 34 on page 69) with “and”.

Delete *clause 91(1)(a)(iii)* (line 35 on page 69).

Replace *clause 91(1)(b)* (lines 1 to 7 on page 70) with:

- (b) the owner or occupier of that land or place is convicted of an offence against section 338(1)(a) of the Resource Management Act 1991 (which is an offence against section 9(2) of that Act).

Replace *clause 91(4)(a)* (lines 20 to 22 on page 70) with:

- (a) no rights that relate to heritage matters within the scope of the requirement or heritage order may be exercised under the suspended consent:

Replace *clause 91(4)(c)(iii)* (line 34 on page 70 to line 2 on page 71) with:

- (iii) take other measures as may be necessary to protect the place and surrounding area specified in the requirement for a heritage order or specified in the heritage order.

Clause 92

In *clause 92(1)*, replace “**84, 85, or 88**” (lines 23 and 24 on page 71) with “**84 or 85**”.

In *clause 92(2)(a)(i)*, replace “place or” (line 31 on page 71) with “place, wāhi tūpuna, or”.

Clause 97

In *clause 97(f)*, replace “**64(2)(l) and (m)**” (lines 29 and 30 on page 74) with “**64(3) and (5)**”.

Schedule

In the *Schedule*, item relating to the Marine and Coastal Area (Takutai Moana) Act 2011, delete the item relating to section 81(3)(b) (line 15 on page 82).

Explanatory note

This Supplementary Order Paper amends the Heritage New Zealand Pouhere Taonga Bill to—

- clarify the purpose of the Register of historical and cultural heritage; and
- recognise the full range of Māori heritage places; and
- help set national priorities for conservation of heritage places.

Clarifying the purpose of the Register

The Supplementary Order Paper changes the name of the Register to the Record. It clarifies that the purpose of the Record is to provide information about New Zealand’s historical and cultural heritage, not to exert regulatory control. In particular, it clarifies the purpose of the Record in relation to the Resource Management Act 1991. It also removes processes that provide short-term protection contrary to the underlying purpose of the Record, namely, interim registration provisions (*clauses 68 and 69*), and protection when changing the Category of a registered historic building to Category 1 (*clause 80(9) and (10)*).

Māori heritage

The Supplementary Order Paper provides for recognition of the full range of Māori heritage places. It makes provision to enter wāhi tūpuna on the Record, defined as places important to Māori for their ancestral significance and associated cultural and traditional values. It continues provisions relating to wāhi tapu and wāhi tapu areas.

National Historic Landmarks List

The Supplementary Order Paper introduces a National Historic Landmarks List (the **List**) to promote appreciation and conservation of places of greatest heritage value to the people of New Zealand. The List must not contain more than 50 places at any one time, encouraging high-level prioritisation. The responsible Minister will determine which places are entered on the List after considering recommendations from Heritage New Zealand Pouhere Taonga (**HNZ**) and consulting the Minister of Māori Affairs and any other appropriate Minister.

Before HNZ recommends a place for the List, it must be satisfied that the place is subject to appropriate legal protection and a risk management plan. That plan will establish how the place is to be conserved and how the effects of natural disasters are to be managed. The agreement of owners and those persons with a registered interest is required before a property is included on the List.

The Supplementary Order Paper also introduces a new function for HNZ, to provide advice in the event of a national or local emergency that impacts on heritage matters. In particular, this will assist conservation if places on the List are affected by natural disasters.

Other amendments

In addition, amendments are made to improve operational practice relating to the Record. For example, the Supplementary Order Paper makes provision for independent assessors to make recommendations to HNZ or the Māori Heritage Council if HNZ or the Council applies to include entries on the Record. HNZ is required to notify and seek public submissions on its policy for administering the provisions of the Bill that relate to the Record.
