
STATES OF JERSEY



REVIEW OF THE PROTECTION OF HERITAGE REGIME: CONSULTATION RESPONSE

**Presented to the States on 29th April 2010
by the Minister for Planning and Environment**

STATES GREFFE

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Review of the Protection Regime

Consultation Response

Introduction

A White Paper: Review of the Heritage Protection Regime was published in January 2009. A public consultation ran from 28th January 2010 for 6 weeks finishing on 12th March 2010. This was the culmination of 2 years' work to bring forward proposals to make the protection regime more efficient, transparent and fit for purpose.

The stated purpose of the White Paper was summarised as –

“The proposed new heritage protection system for Jersey system is based on a new single form of heritage protection for historic buildings and places – to be known as Listed buildings. This designation will replace the existing two tier system of Sites of Special Interest (SSI) and Buildings of Local Interest (BLI). It is also proposed to introduce protection for groups of buildings and places with a particular architectural and historic character that will be designated as Conservation Areas.

The new system will simplify how the historic environment is identified, making clear what is protected and why; and it will ensure that the process of protection is open, clear, fair and robust. The new system will introduce four non-statutory grades of Listed building designation.

The proposed review of the heritage protection system will be complemented by a comprehensive review and re-survey of all of the buildings and sites currently protected. This will ensure that there is a high and consistent standard for buildings and places to be Listed. The re-survey will begin in 2010 and is likely to take at least two years to complete.

The consultation allows us to seek the views of all Islanders on these proposals, in particular owners and occupiers of historic properties, as well as groups and individuals with an interest in Jersey's historic environment.”

Process

The consultation was launched using the local press and direct targeting of the White Paper to heritage interest groups and professional representative groups as well as individuals with an interest in heritage.

Good coverage across all media channels ensured a level of general awareness of the White Paper.

Representatives of the Planning and Environment Department met with special interest groups to present the proposals in the White Paper. Further and specific comment was invited from these key stakeholders as well as owners of historic properties and the general public.

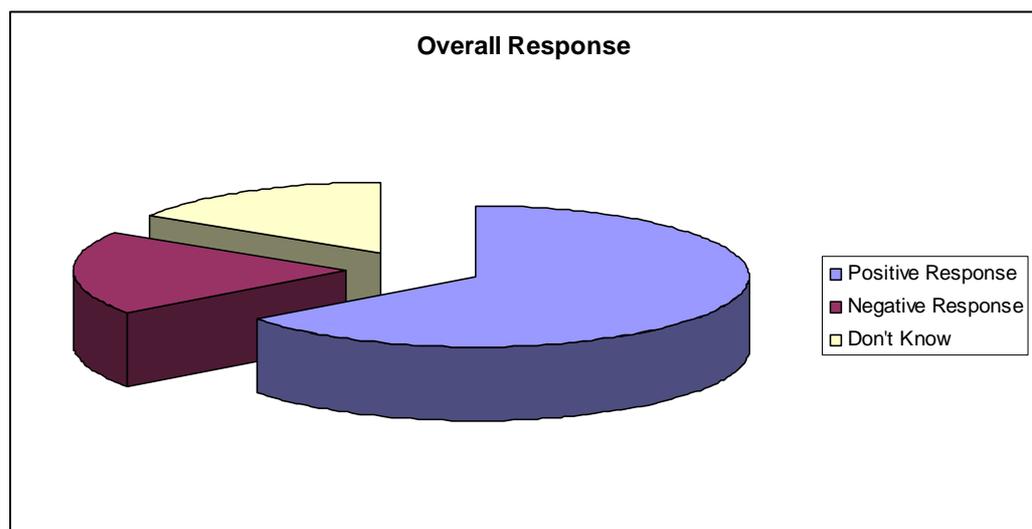
Consultation responses were collated through an online interface, allowing a simple statistical assessment of the responses made.

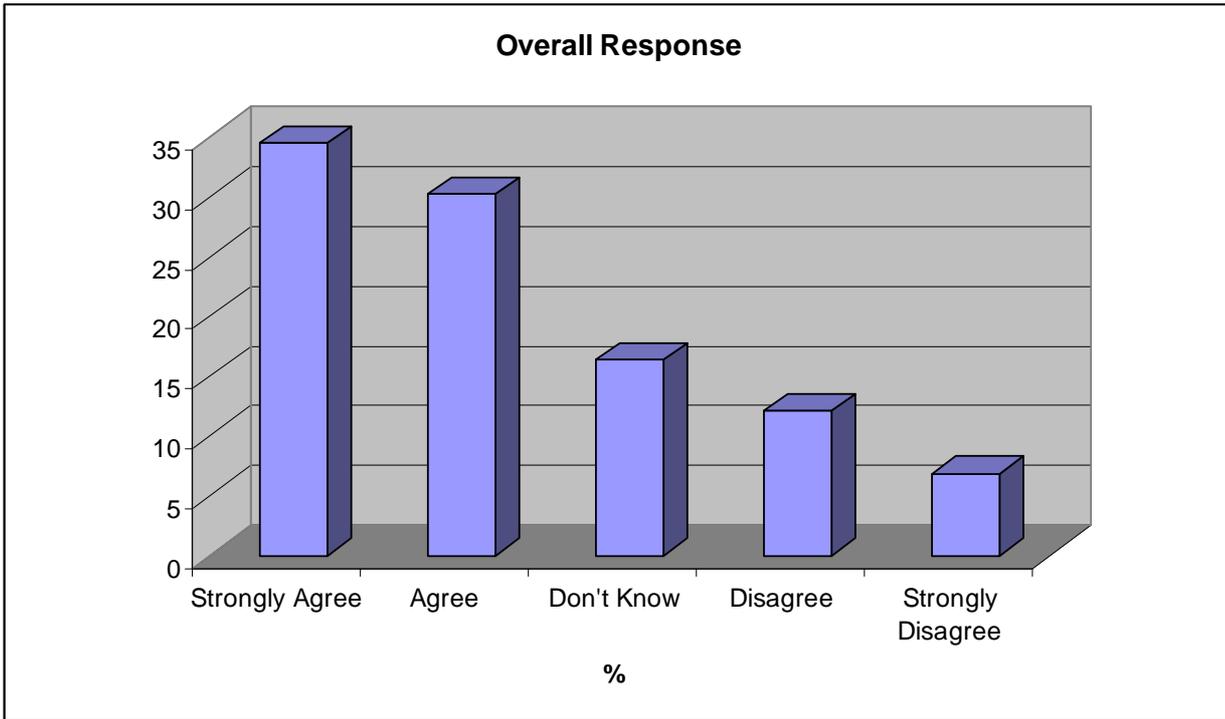
Summary of Consultation Responses

There were 27 responses counted from individuals, special interest groups, heritage groups and development industry professionals. The responses were gathered using 6 closed questions on a ranking scale of acceptance or disagreement. This allowed the following assessment: Twenty of the 27 responses were in questionnaire form or in a form that allowed each question to have a ranked answer assigned allowing the following assumptions to be made.

Overall Response

In overall response to all the questions the trend was very positive, with 64% of respondents strongly agreeing or agreeing with the questions posed. 19% disagreed or strongly disagreed with the questions posed, with 16% unsure of what response to make.

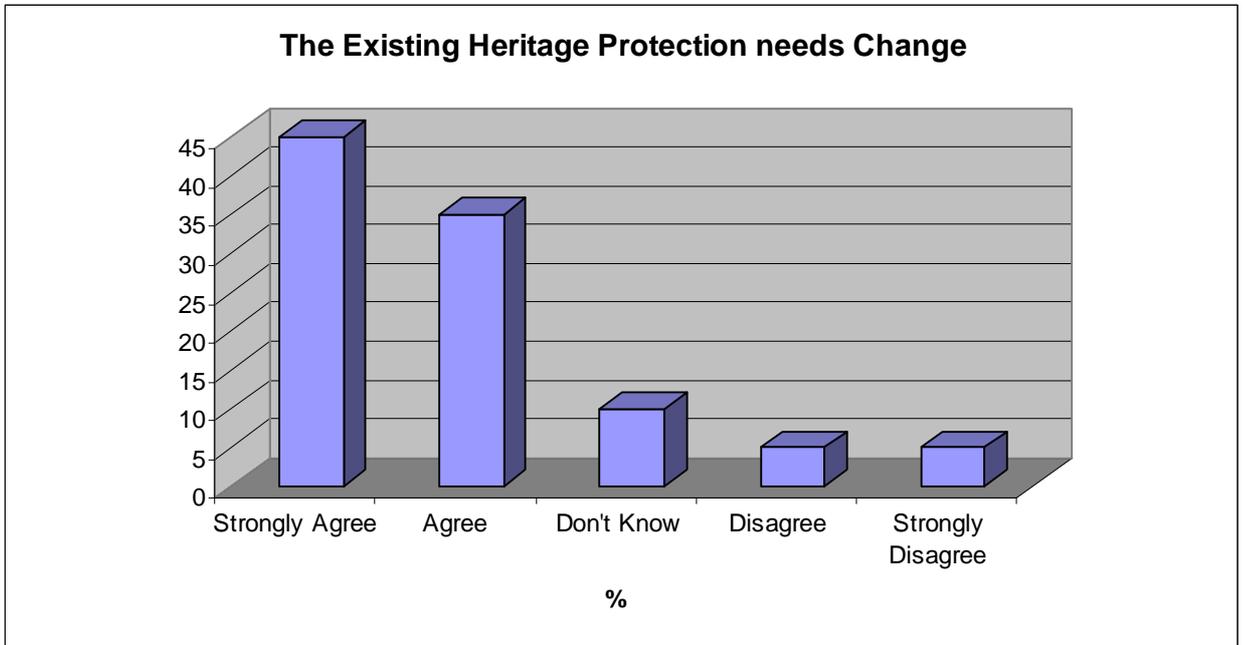




Overall Response Pattern	34	30	16	12	7
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1. The existing heritage protection regime requires change?

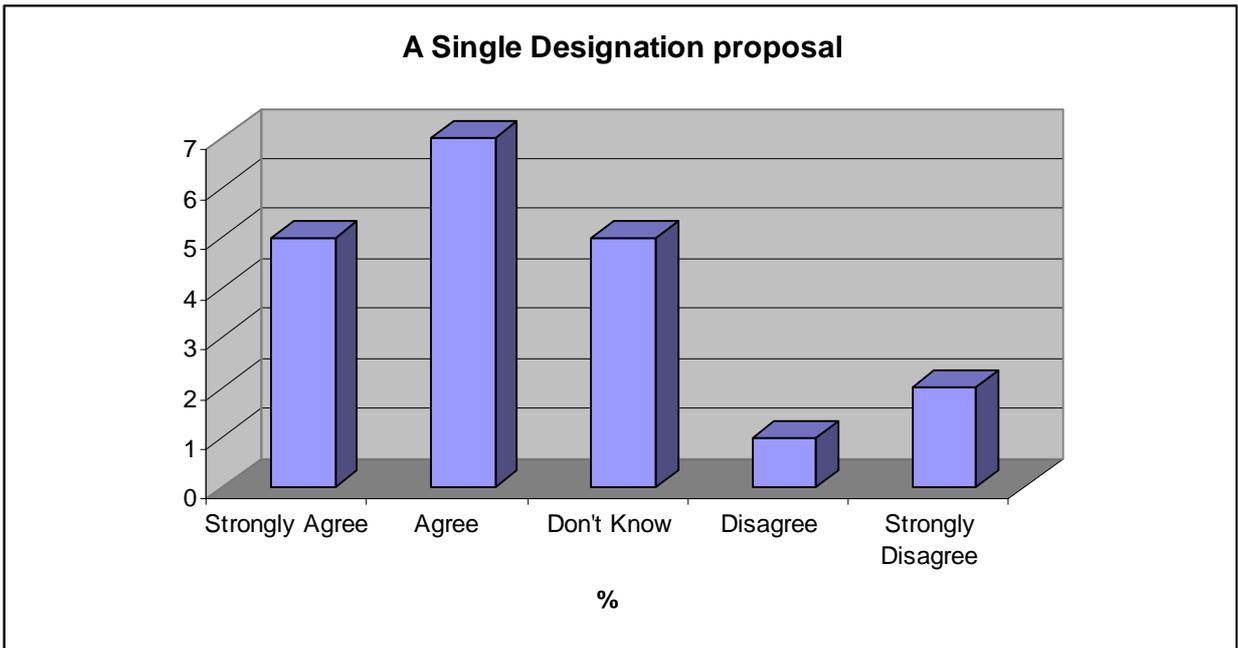
80% agreed the heritage protection system requires change. 10% disagreed or strongly disagreed (split 5% each) that change was required.



1. The existing heritage protection regime requires change?	45	35	10	5	5
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2. Replacing the two-tier system of Sites of Special Interest and Buildings of Local Interest with a single designation of Listed Buildings for protected buildings and sites of heritage value will improve the heritage protection regime?

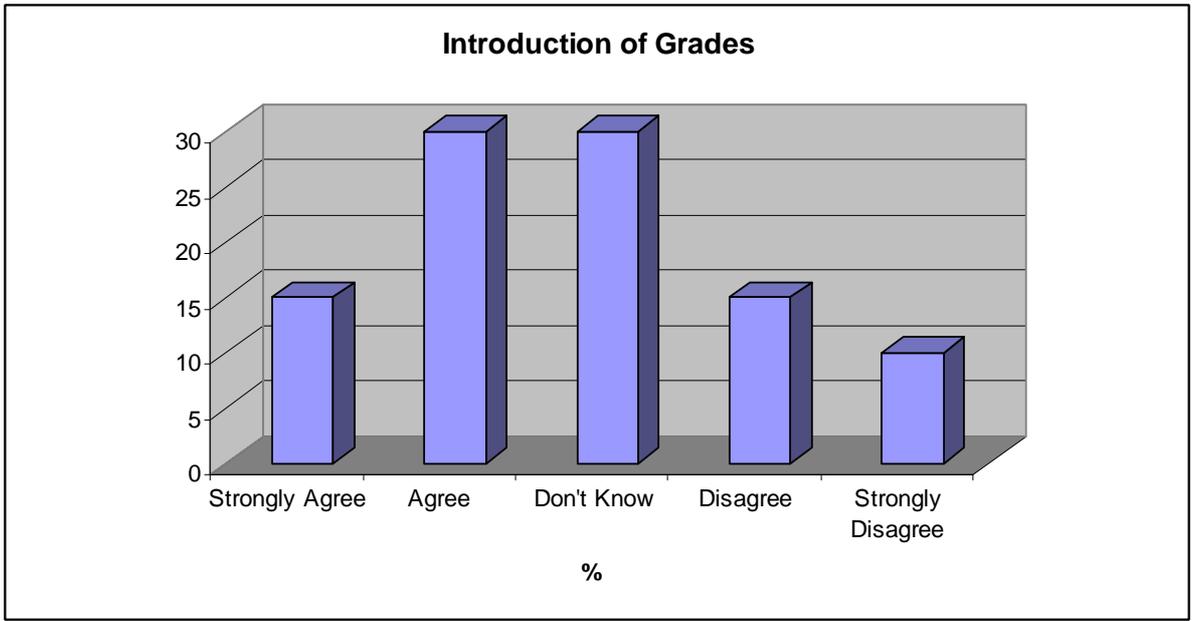
Replacement of the current two-tier system with a single Listed Building designation was supported by 70% of respondents. Whilst 15% disagreed there were another 25% who did not know whether this would help protect the historic environment.



2. Replacing the two-tier system of Sites of Special Interest and Buildings of Local Interest with a single designation of Listed Buildings for protected buildings and sites of heritage value will improve the heritage protection regime?	25	35	25	5	10
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3. A non-statutory grading system will help people to understand the value of a Listed building or place?

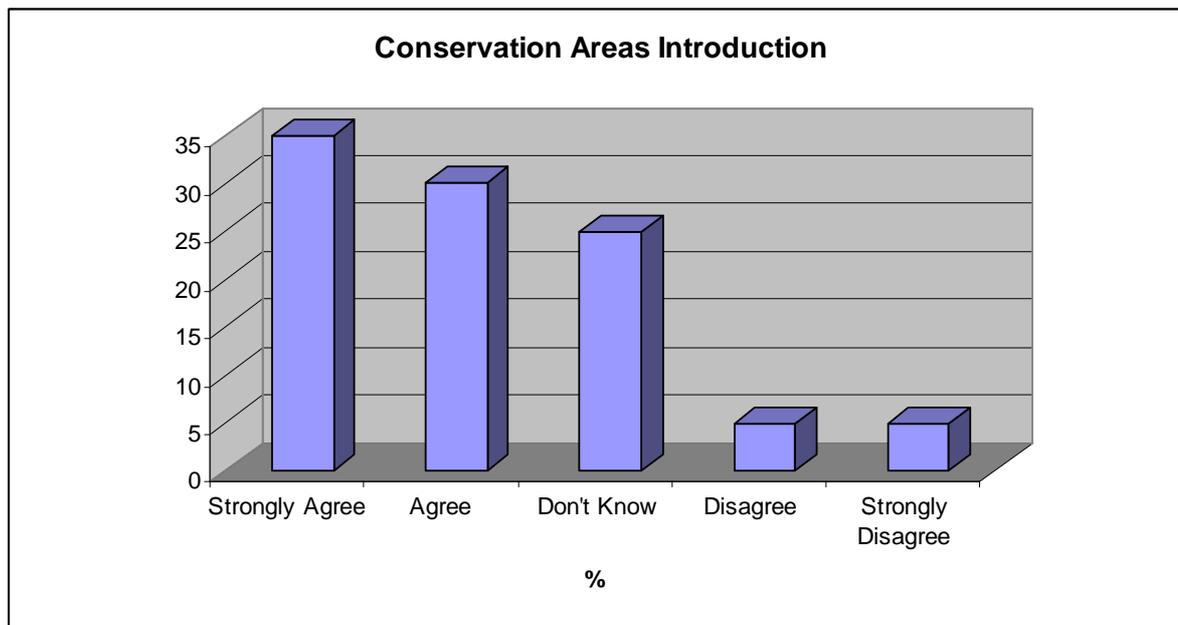
45% agreed that a grading system was a positive change, with 15% disagreeing. However there were 30% of respondents who did not know whether grading would improve the heritage protection on the Island.



3. A non-statutory grading system will help people to understand the value of a Listed building or place?	15	30	30	15	10
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4. The introduction of Conservation Areas will improve the heritage protection regime?

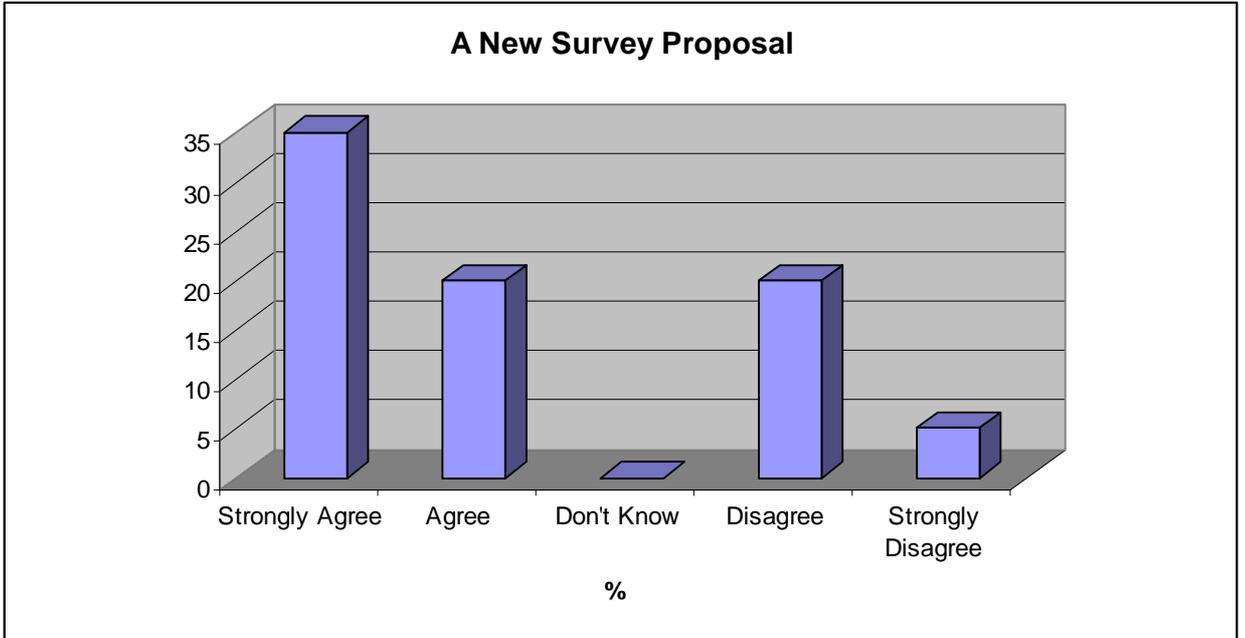
Conservation Area designation was supported by 65% of respondents, with 10% disagreeing. A quarter of respondents did not know whether Conservation would improve heritage protection.



4. The introduction of Conservation Areas will improve the heritage protection regime?	35	30	25	5	5
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5. A comprehensive re-survey and review of all of the Island’s existing protected buildings and sites is necessary and appropriate?

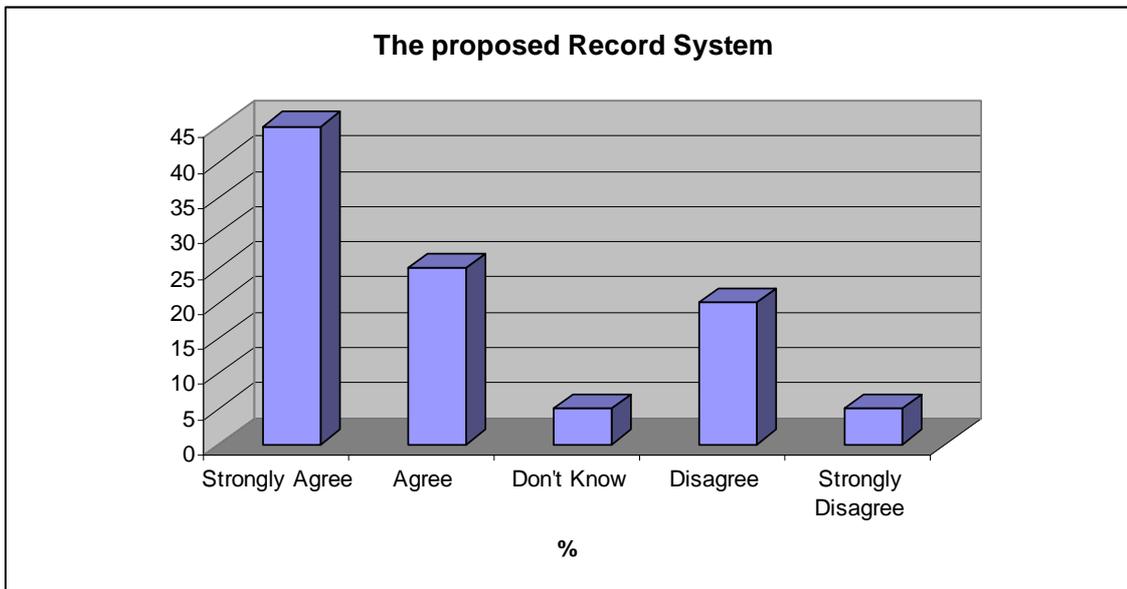
The need for a re-survey was supported by 70% of respondents, with 25% disagreeing. There was no ambivalence on this question.



5. A comprehensive re-survey and review of all of the Island’s existing protected buildings and sites is necessary and appropriate?	35	20	0	20	5
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6. The development of a publicly accessible Historic Environment Record will help us all to understand what is protected and why?

Support for a historic environment record system was received from 70% of respondents 25% disagreed with a further 5% who did not know.



6. The development of a publicly accessible Historic Environment Record will help us all to understand what is protected and why?	45	25	5	20	5
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Assessment

In assessing the further comments the following general summary can be made.

1. The existing heritage protection regime requires change?

In terms of the existing protection system and the need for change, building-owners or members of the public supported a more people-focussed approach that would allow greater change and adaptation and de-listing of their property. The current system was cited as overly complex and difficult to understand. One respondent believed that lack of care of the historic environment would leave the community environmentally poorer.

The special interest groups believed the current system allowed too much flexibility and that it did not provide sufficient protection. As a result there was a loss of irreplaceable heritage. It was suggested this could be assisted by a better identification of what is of value. Furthermore, some respondents believed that the system is slow to respond to the faster-paced development industry. The lack of protection of historic interiors was raised as an issue. Most historic buildings are currently Registered as Buildings of Local Interest and as such interiors are not protected.

Development professionals wanted in principle agreements with less emphasis on detail. However, they too generally agreed the system was more complex than needed and confusing for many. One expressed concern about the resource and personnel requirements and the impact this would have on existing stretched resources within the Department.

2. Replacing the two-tier system of Sites of Special Interest and Buildings of Local Interest with a single designation of Listed Buildings for protected buildings and sites of heritage value will improve the heritage protection regime?

Generally it was seen as a simpler and clearer system with a greater level of flexibility to describe the historic environment. The level and accuracy of information was seen as key by many. This, it was suggested, needed to be supported with a clarity of description and specification of the historic value of a building or place. The differentiation between a Listed building and place as an archaeological resource would, it was believed, need to be clearly stated.

There was a concern about the resource implications of this work alongside a potential increase in bureaucracy. One respondent strongly disagreed because particular characteristics could not be amalgamated into one description.

The need for independent assessment on listing with a more local interpretation of change management was suggested made by comparison with the UK system to support this view. The resources needed for this work in Jersey were questioned and, given the time taken to carry out this work, the assumption made that owners would need to carry out this assessment at the time as a planning application rather than States officers.

One respondent did not see the switch across to the new grades using the existing designation as an improvement, as the intrinsic faults of the system continue.

3. A non-statutory grading system will help people to understand the value of a Listed building or place?

The use of grades was seen by many as a simple system easier to generally comprehend that set out the special interest in a clear manner. Anything that helps improve the public understanding of why a place or building is protected was welcomed.

One respondent suggested the grades were a neutral idea, but had concerns this was a way to bring in new controls on the insides of house that are only controlled on the outside. They requested the advantages were made to outweigh disadvantages in any change.

Direct benefit to the customer was questioned. The current system was cited as familiar and easy to understand. The cost for radical change had not, in their view, been justified.

Some believed that the grades and the distinction between them will need to be very carefully dealt with and the decisions made in a transparent way.

The lack of current resources and slow departmental response currently were cited by one person as reasons not to implement a grading system. Some wished to assure that the future assessment is carried out by an independent and impartial assessor and to an agreed quality standard.

4. The introduction of Conservation Areas will improve the heritage protection regime?

Those who strongly agreed wanted to ensure streetscape was considered rather than individual buildings. There are many buildings whose individual contribution is difficult to weigh; however, taken as part of a group the value is clearer. It was suggested by one this is more appropriate to how the environment is seen by the public. The current system is seen as too cumbersome to find a way to protect streetscape contribution hence the support for Conservation Areas. However, others suggested that the Areas needed to be drawn up to ensure special character is clearly defined. There was a support for Conservation Areas as tools to engender urban regeneration.

One respondent believed the changes would complicate the system further; the change in name is largely semantic, he opined. Furthermore, it was suggested that more information needs to be made available before this change is enacted.

Concerns were raised that the protection would be lowered for some buildings. Conversely, other buildings of no interest would lie within a new Area. Resource limitations were cited by one respondent as a reason not to introduce Areas. Another could not see the value of areas rather than individual buildings. Others wanted more information to be able to express an opinion. In the context of St. Helier, a Conservation Area will add burden to the development industry and stifle development in the view of one respondent.

5. A comprehensive re-survey and review of all of the Island's existing protected buildings and sites is necessary and appropriate?

Many welcomed a new survey. It was seen as key to achieving an accurate description of the historic environment and to ensure future public understanding. There was support for a comprehensive and finished piece of work, given previous incomplete surveys over the last 20 years. The ability to make a thorough evaluation clearly identifying values within criteria was seen as a key deliverable. The need to rebuild confidence in the system could be delivered by a credible and Island-wide survey it was suggested.

There was a view that all BLI should become Grade 4 to ensure interiors remained uncontrolled. Others supported the removal of significant numbers of BLIs from the list as there is a view these are commonplace buildings of poor construction identified due to their antiquity alone.

The process will need to be rigorous to ensure all 6 tests under the 2002 Law are consistently applied to each building and/or place which could be considered onerous, suggested one respondent. They continued to suggest a bottleneck would be formed through the existing Listing and Registration system which could add unnecessary delay to the re-survey so further delegation may be needed. This meant that management of change to protected sites and buildings during the transitional stages needs to be clarified. The proposed transitional proposals were challenged as arbitrary given the reasons the pSSI designations were arrived at in the 1970s and 80s.

The resources needed to carry out the survey were seen as a bar to implementation, especially in the current financial climate and the future burden on taxpayers or planning applicants. Value for money was seen as key.

6. The development of a publicly accessible Historic Environment Record will help us all to understand what is protected and why?

The resources needed to achieve this was cited as a reason not to implement the Record. Others wanted to ensure value for money.

This was seen as the mainstay of the change proposals by some. Without good data and records, the new system could not operate in the manner proposed. Allowing the public, owners and the development industry access to good quality data would help support understanding and then support for the historic environment. Others wanted to ensure that a full search facility alongside photographic identification was included. The ability to gather information in one place was also welcomed. Finally it was believed by some this would help remove the present misunderstandings of what is Listed and why.

General Issues

Two owners specifically wrote to seek de-listing of their house, citing additional cost burdens, and suggesting the property should not have been Listed or Registered in the first instance.

A specific concern was raised with regard to consistency of approach with a suggested lack of co-ordination across the Planning and Environment Department and other Departments of the States. Issues of delays and antagonistic attitudes were also cited as a reason for lack of engagement with owners.

Historic landscapes were cited as an undervalued part of our heritage and further assurance for future protection sought.

A specific concern was raised about the damage to archaeology within rural fields that are currently explored by metal-detectorists. The suggestion strongly made that the new system would not solve the degradation of this resource.

An independent appeal system was called for rather than a States Department or the Royal Court because the cost of the Royal Court is prohibitive.

A specific concern regarding works to Churches in ecclesiastical use and those made redundant was raised. This sought a full dialogue to ensure that these buildings could remain in use, and when no longer required, be used to raise capital to support the Church.

Archaeology requires a special consideration. The use of "Listed Place" may not be enough to differentiate, suggested one respondent. Compared to the U.K., the joining of building and archaeological designations was abandoned, in part, due to complexity.

The management of change needs to be clearly identified as part of the development control process and more information is needed as part of any future implementation.

One person challenged Paragraph 6.4 as incorrect – the Royal Court cannot remove a building from the List or registration. The Court can remove a site or building if an appeal against the Listing is made at the time the Minister is intending to List. The Court cannot do so once the Minister has Listed a building through due process.

Island Plan Consultation

The Island Plan Consultation raised some specific issues which are useful to consider as part of the consideration of changes to the Historic Protection Regime.

An owner of a BLI in St. Helier commented in the strongest terms that the current system limits control to the façade only, and any change that added further protection to the whole building would cause future business operation and replacement of the building to be onerous. They also concluded that engagement with the Department was inflexible, which would be compounded through greater control. As such they objected to proposed Policy HE1 and the justifying wording.

L'Office du Jèrriais commented on the States Strategic Plan support for language and cultural development and support for the revival of the language of Jèrriais. The support for the proper naming and grammatical use of the language was supported as part of the traditional naming of fields, places and buildings. This has a bearing on the use of language to describe historic features and places.

Rebuttal/Acceptance

There is a list of all respondents at the attached Appendix.

On the matters raised, the following responses are made –

1. The existing heritage protection regime requires change?

There is generally a high level of support for changing the system. The reasons cited in the White Paper received support. The resource implications will be considered at implementation stage to ensure the changes made are both fit for purpose and meet value for money aspirations.

In conclusion, the response appears to support changes set out within the White Paper to change the Protection Regime.

2 Replacing the two-tier system of Sites of Special Interest and Buildings of Local Interest with a single designation of Listed Buildings for protected buildings and sites of heritage value will improve the heritage protection regime?

There is generally a high level of support for replacement of the existing range of designations with one “Listed” designation. Whilst more people agree than strongly agree, the positive still significantly outweighs the negative responses. Concerns about the level of information about a Listed Building or Place, management of resource implications and the information given to enact the change, will need to be addressed at implementation stage. This will require good communications between the independent re-survey Inspectors and building/site owners. Further public promotion of the change will be needed.

There is a reasonable challenge to the transitional processes. Switching the system using the current designation to inform the grade would allow a paper-switch with no impact on controls that current owners experience. Then as the survey commenced, a rigorous and independent assessment would confirm or change the Listing and grade. The transition period would afford the same protection as exists prior to the full review. The right of appeal against Listing would then be given to all building-owners rather than just those owning Sites of Special Interest as at present.

3. A non-statutory grading system will help people to understand the value of a Listed building or place?

There is generally a majority support for the introduction of grades to differentiate a Listed Building or Place. The need to clearly distinguish between different grades was raised. This will need to be carefully controlled as part of the review process. However, completing a point-in-time survey will allow a greater level of consistency than the current system, which has gradually amended Listing and Registration since 1992. The need for an independent review appears to be supported.

4. The introduction of Conservation Areas will improve the heritage protection regime?

There is generally a positive outcome for this proposal. This reflects the Heritage Survey completed by the States of Jersey Statistics Unit in 2009, where there was resounding support for this proposal. There were concerns that the loss of BLI status within a Conservation Area would reduce protection. However, tied to a full review of such buildings, the requirement to protect the exterior alone or full designation would address this concern. Further information will need to be imparted prior to the designation of any such area through a separate and targeted consultation process. This is especially true as such a designation is geographically specific with value judgements made on specific historic character and the conservation of such.

5. A comprehensive re-survey and review of all of the Island's existing protected buildings and sites is necessary and appropriate?

Everyone who responded expressed an opinion on this question, with the significant majority supporting the need for a survey. It is clear from the responses that the survey is needed to clearly and objectively identify the value of a Listed Building or Place. This work must be done with value-for-money. The system to ensure designation happens in a timely and expedient way needs to be developed to ensure that owners are aware of the proposals, that the process of Listing is fair, transparent and consistent and that the right of appeal is properly managed.

6. The development of a publicly accessible Historic Environment Record will help us all to understand what is protected and why?

The need for a high quality record system was seen as positive by most respondents. Those who did not support this proposal cited resources and cost as the reason not to implement. The ability to understand why a building or place is Listed lies at the heart of the proposed system. The production of this new system relies upon a high-quality point-in-time survey to supply high-quality data. The ability to clearly translate the specific historic values of a building and place is key to managing change in a sensitive but transparent manner. Without a new record system, the 'buy-in' to the revised Protection System will be in question as owners, developers and the community will now know why a building or place is protected.

General Issues

The proposed Heritage Protection System reflects the terminology used in the U.K. However, both Listed Buildings and Conservation Areas are considered understandable and generally accepted terms. The point raised by L'Office du Jèrriais has a bearing. Consideration is being given to the use of Jèrriais phrases for Listed Building, Listed Place and Conservation Area as support for a more locally culturally relevant, supporting a bilingual approach.

Clear communication will be needed to ensure the Survey is carried out with the support and active participation of owners. The system to pursue Listing has been streamlined through greater delegation. Further refinement has been proposed which will need to be assessed with the appointed survey team and refined in practice.

Discussions with specialist groups (such as Jersey Metal Detectorists) are ongoing to help ensure that as many interests as possible can be understood and taken account of when assessing places, sites and buildings for future protection. Further work is being undertaken with different ecclesiastical bodies to assess the future level of control to be exercised in places of worship.

Conclusion

- There is overall positive support for future change of the system.
- The new single designation for buildings and places can be brought forward over the next 2 years. This proposed change forms part of the emerging Island Plan policy framework.
- To aid the proposed transition, a new non-statutory grading system can be introduced based on existing designations to ensure minimal disruption and misunderstanding during the change from the current system to the post-Island survey system.
- The full re-survey is a critical piece of work that will allow any new Listings to be carefully and independently considered. This will ensure the system is robust to assist owners, developers and professionals in managing future change.
- The creation of the Historic Environment Record System can be introduced. This needs to be developed alongside the detailed survey information.
- Introduction of Conservation Areas is supported, but further engagement and specific proposals will be needed for each area to ensure community support and understanding of the aims of new Areas. This proposed change forms part of the emerging Island Plan policy framework.

APPENDIX

List of respondents to the Consultation

Person ID	Full Name	Organisation Details
171154	Mr. Tony Legg	Jersey Sea Farms
181221	Ludlam	
175928	Mr. Stephen de Gruchy	
399204	Mr. Robert Moir	Secretary, Jersey Detecting Society
399715	Lord Robert Thomson of Dumbarton	
400317	Mr. Antony Gibb	
349070	Mr. Matthew Waddington	
402577	Mr. John Williams	
405213	Mr. Andrew Morris	
405917	Mr. Robert Le Mottée	
406409	Mr. Carlo Riva	Managing Director, Riva Architects Ltd.
406610	Mr. Andrew Harvey	
407093	Mr. Chris Aubin	
408371	Mr. Francis Corbet	
262433	Dr. John Le Gresley	
408373	Mr. Andre Ferrari	
408376	Mr. Tim Herbert	
408380	Mr. P. Craig	
408384	Mr. Paul Harding	
408394	Mr. David Williams	
408398	Mr. Stuart Fell	
408400	R. Le Brocq	
411884	Mr. John H.W. Clarke	
411889	Mr. John Mesch	
411896	Mr. Michael A. Richecoeur	
411910	Mr. V.M. Le Couteur Rowell	
411916	Mr. and Mrs. Gallichan	