



*The Voice of Heritage
for New Zealand*



ICOMOS NEW ZEALAND
TE MANA O NGA
POUWHENUA O TE AO
INTERNATIONAL COUNCIL ON MONUMENTS AND SITES

**Submission to the Environment Committee
Inquiry on the Natural and Built Environments Bill:
Parliamentary Paper
HPA / ICOMOS NZ JOINT SUBMISSION**

Introduction

This submission is a joint submission on behalf of two organisations - *Historic Places Aotearoa* (HPA) and *ICOMOS New Zealand /Te Mana O Nga Pouwhenua O Te Ao* (ICOMOS NZ).

Historic Places Aotearoa

Historic Places Aotearoa (HPA) was formed in 2013 to be a strong and independent organisation representing heritage interests nationally. Before the Heritage New Zealand Pouhere Taonga Act 2014 was enacted, New Zealand Historic Places Trust had 23 local branch committees. This Act saw the trust replaced by a Crown entity, Heritage New Zealand Pouhere Taonga, and the regional branch committees abolished.

HPA now represents many of the former branch committees.

Its aims are to:

- be the lead non-statutory, independent national voice for heritage
- help preserve historic places in Aotearoa NZ for the benefit of present and future generations
- lift awareness and appreciation of heritage values
- help regional heritage groups promote heritage in their areas.

HPA works with its heritage organisations to advocate for heritage regionally or locally. In return, these member organisations support HPA on national issues.

HPA currently has 10 affiliated regional societies and 2 associate member groups.

Where possible, HPA works cooperatively with local councils, Heritage New Zealand Pouhere Taonga and other like-minded organisations concerned with the preservation of historic heritage in New Zealand.

ICOMOS New Zealand /Te Mana O Nga Pouwhenua O Te Ao

ICOMOS is an international non-governmental organisation of heritage professionals dedicated to the conservation of the world's historic monuments and sites. The organisation was founded in 1965 as a result of the international adoption of the Charter for the Conservation and Restoration of Monuments and Sites in Venice in the previous year. ICOMOS is UNESCO's principal advisor in matters concerning the conservation and protection of historic monuments and sites. The New Zealand National Committee was established in 1989 and incorporated in 1990.

ICOMOS New Zealand (ICOMOS NZ) has 107 members made up of professionals with a particular interest and expertise in heritage issues, including architects, engineers, heritage advisers, archaeologists, lawyers, and planners.

In 1993 ICOMOS NZ published the ICOMOS New Zealand Charter for the Conservation of Places of Cultural Heritage Value. A revised ICOMOS New Zealand Charter for the Conservation of Places of Cultural Heritage Value was approved in September 2010 and is available on the ICOMOS New Zealand website.

The heritage conservation principles outlined in the Charter are based on a fundamental respect for significant heritage fabric and the intangible values of heritage places.

Context of this submission

We (HPA and ICOMOS NZ) welcome the opportunity to engage with government on the proposed reform of the resource management system and provide feedback on the 'exposure draft' of the Natural and Built Environments Bill and the associated parliamentary paper.

Members from both organisations formed a larger working group to discuss and produce a formal written submission to this bill. ICOMOS NZ and HPA issued an EOI to their membership seeking those who would be interested in joining the working group and contributing knowledge in respect to their professional expertise.

The group established weekly meetings to discuss the issues of common interest, primarily the matter of working with and protecting Aotearoa New Zealand's cultural heritage for present and future generations. We collectively believe that cultural heritage in its many formats (archaeological, landscape, built, object) provides an understanding of our country's development, which contributes to the well-being of our peoples.

Executive Summary

Given our specific heritage related remit and interests, the clauses that we have chosen to focus our submission on are the ones that have particular implications for the effective ongoing management and protection of cultural heritage in New Zealand.

The main emphasis being that:

1. In the spirit of Te Tiriti o Waitangi, we are the kaitiaki of all forms of Cultural Heritage in Aotearoa.
2. Protecting our Cultural Heritage is at the forefront of providing environmental context for our ancestors and future generations, both tangibly and intangibly.
3. Cultural Heritage is at the forefront of meeting climate change goals by retaining existing significant buildings for retention within our environmental contexts rather than being sent to landfills.
4. We support the intention in the proposed Bill for central government to 'provide clear national (strategic and regulatory) direction' via the National Planning Framework (NPF).
5. Cultural Heritage is included in Clause 13 (1) as a topic the national planning framework must include, and that a national planning framework is created to direct outcomes relating to our country's Cultural Heritage outcomes.
6. The government review and bring together existing national planning directives (eg existing NPS & NES documents), along with new national directives (such as an NPF for Cultural Heritage) to form a coherent combined suite of national standards, under the umbrella of the National Planning Framework, as was recommended by the RM Reform Panel.

Prologue

We agree that there is a need for reform of the resource management system, as the current Act is no longer adequate in providing effective protection for the natural environment and our cultural heritage, while allowing for appropriate development.

We acknowledge that cultural heritage has seen incremental improvement with respect to protection in more recent years. However, we risk losing the gains made, in providing some protection for cultural heritage, under this proposed exposure draft document.

We believe that the Natural and Built Environments Bill, in its current form, is a move back to the 1980's, where large parts of New Zealand's built cultural heritage were demolished in the name of progress. Once it was gone our communities suddenly realised what they had lost, by which time it was too late. Only between 1-2% of the building stock in New Zealand is currently recognised as being of Cultural Significance. This is a very small fraction and any loss of this heritage fabric is of concern.

The Bill in its current form is not universal in its approach to the protection of the "Environment" as defined in the Bill. It appears to be narrowly focussed on building more houses, while protecting 'key' parts the Natural Environment. We believe that resource management reform needs to be holistic in its approach to environmental management of the resources at our

disposal. This includes the natural and cultural/built environments in which we live, work and play.

The reset of our environmental policy is an opportunity to develop world-leading environmental legislation that **protects both** our Natural Environment **and** our Built Environment. We need to continue to protect our Cultural Heritage by incorporating robust and considered protections into the new legislation in order to sustain Aotearoa's Environment as a whole, which collectively forms a strong part of our cultural identity.

In strengthening our Cultural Heritage protections, we unlock both environmentally and culturally sustainable benefits, which can be successfully balanced with our societal and economic aspirations for enabling respectful and sustainable development within the Natural and Built Environments.

The transition from 'effects'- based planning to outcomes provides the opportunity to lessen the reliance on regulatory instruments which are designed to prevent poor outcomes rather than promote good ones. More thought will need to be given to how other methods can be used particularly around guidance and negotiation to avoid "winner takes all" outcomes. One of the greatest threats to heritage protection is Clause 7(b) of the current Act – efficient use of resources. This has been taken to mean 'economic efficiency', which leads to outcomes based on 'highest and best use of land'. Economic theory is not good at pricing intangibles and the new legislation needs ensure that regulatory impact assessments (such as whatever replaces the current Section 32 assessments) achieves a better balance between economic and non-priced costs and benefits.

The current RMA and other associated legislation and protocols can create confusion and lack integration creating conflict and a cumbersome working relationship between central and local government and the public.

The current Resource Management Act permits the destruction of our 'environment', built and natural, by a thousand cuts. Notification decisions are based on whether the effects of development are less than minor. This suggests that things will be worse than they were before and if things are always slightly worse, over time they become much worse and this is where we find ourselves today.

Having said that:

- The Act, and the plans and policy statements prepared under it are being overly blamed for situations that it cannot solely be responsible for, including reduced housing affordability. There are limits to what any planning legislation can achieve;
- Decision making is fragmented including within local government departments, between different levels of local government, between local and central government, and within central government;
- Processes have become overly legalistic, time consuming and expensive, making it costly for the public and groups on limited budgets;
- Local government lacks the capacity and financial and human resources to do little more than administer plans i.e. it is financially hamstrung to enable it to better engage with developers and landowners to secure positive outcomes.

In light of this context, we welcome the opportunity to respond to the proposals included in the exposure draft of the Natural and Built Environments Bill. We note that the draft contains initial content relating to key aspects of the Bill, with the full Bill to be introduced in the House early-mid 2022.

We broadly support the following stated resource management reform objectives (as stated in the 'Select Committee Terms of Reference') to:

- a) *protect, and where necessary, restore the natural environment, including its capacity to provide for the well-being of present and future generations*
- c) *give effect to the principles of Te Tiriti o Waitangi and provide greater recognition of te ao Māori, including mātauranga Māori*
- d) *better prepare for adapting to climate change and risks from natural hazards, and better mitigate emissions contributing to climate change*
- e) *improve system efficiency and effectiveness, and reduce complexity, while retaining appropriate local democratic input.*

We have some reservations about the following stated resource management reform objective to:

- b) *better enable development within environmental biophysical limits including a significant improvement in housing supply, affordability and choice, and timely provision of appropriate infrastructure, including social infrastructure.*

We accept that New Zealand has a significant issue with respect to the supply of housing. We are however concerned that the tail is wagging the dog with respect to parts of this Bill. The shortage of housing is just one issue in amongst a number of competing ones. The Bill references housing a number of times, but does not consider the other elements that create successful communities, such as the need for schools, shops, offices, industry, health centres, museums etc to support and sustain the people that live in the houses that are proposed to be built.

We need to be careful that we are not letting the current generation create problems for the future generations. We are the kaitiaki of the resources that currently exist for the future generations and once these resources are destroyed, they are no longer available to future generations to utilise.

We need to acknowledge everyone's cultural heritage especially iwi and hapu but realising that we have many other cultures that have shaped this country. We must sustain Aotearoa's dual cultural heritage and our diverse cultural identities.

For example - Do we continue to use up productive farmland for housing? Once this change occurs it will never revert back to farming no matter how short of food we may be. The same applies to our Cultural Heritage, once it is destroyed, it cannot be brought back.

It is therefore an imperative that we set appropriate environmental limits for all our resources and ensure that the aim for future development is to always make things better with respect to the environment in which we exist. This includes the environment as a whole and not just the natural environment.

Sustainability

Sustainability is a corner stone of modern heritage protection and management practice as it promotes ongoing repairs, maintenance and the adaptive reuse of buildings. We see heritage protection as a vital element in reducing the carbon footprint of our Built Environment. This concept has been recognised internationally as a priority in making our built environments not only more environmentally sustainable, but also more economically, socially and culturally sustainable.

The Building Research Association of New Zealand (BRANZ) notes that:

*“The construction and demolition industry is one of the largest waste-producing industries in New Zealand. Construction and demolition waste may represent up to **50% of all waste generated in New Zealand**, with 20% of the waste going to landfill and 80% going to cleanfill sites.*

Disposing of these materials to landfill means that, as well as not being recovered for further use, they are contributing to adverse environmental effects. These include harmful chemicals leaching into soil and waterways, plus methane emissions into the air, as the waste breaks down and rots.”¹

By providing calculations of the whole life-cycle-cost - the total timeframe of the building's life, the materials it is constructed from, and the energy used during construction - we establish the true carbon footprint of a building. This can then be translated into a financial cost that is inherent in the building, which would be a true comparison for the cost of building replacement. The replacement building would need to provide a better outcome for it to be considered a better “cost” decision – culturally, environmentally as well as financially. How the materials are manufactured, how long will they last, the energy consumption they require to function, how they are maintained, the labour taken to construct, what happens to these materials when they are discarded, etc., should all be taken into account when assessing the true environmental cost of the built environment.

It is also worth noting that our built heritage is made in materials that we would not be able to source or afford in the present time – solid stone masonry, kauri, rimu for example. In calculating the costs as noted above, it would be clear that an entire house built out of kauri would be out of reach to us all, which begs the question of why you would send this material from an existing build to landfill and consider that environmentally sustainable?

Related to the above point, we support the government commitment to achieving net zero carbon emissions in Aotearoa by 2050 and, in particular, emission reduction in the Built Environment through ‘Whole-of-Life Embodied Carbon Emissions Reduction Framework’ as proposed by MBIE (2020), which strongly supports the concept of adaptive reuse of existing buildings.

¹ <https://www.branz.co.nz/sustainable-building/reducing-building-waste/>

Prescription vs Description

Legislation tends to be too prescriptive, which tends to produce adverse outcomes. Documents that are more descriptive with 'best practice' examples have a better chance of producing the outcomes that are desired.

We should look to make use of and incorporate existing international environmental policy 'best practice' and consider aligning Aotearoa's environmental policy with these - for example:

- the ICOMOS 'European Charter of the Architectural Heritage' (1975);
- 'Leipzig Charter on Sustainable European Cities' (2007) and the subsequent 'New Leipzig Charter' (2020);
- the UN 'Sustainable Development Goals' (2015).

And locally:

- 'ICOMOS NZ Charter for the Conservation of Places of Cultural Heritage Value (2010);
- NZ Urban Design Protocol (2005);
- Heritage NZ 'Saving the Town - Heritage Toolkit' (2020);
- 'Whole-of-Life Embodied Carbon Emissions Reduction Framework' (MBIE, 2020)...etc.]

Conflict within current legislation

There is currently a lack of synchronisation and direction between the many different organisations that manage heritage in New Zealand; for example:

Nationally: Heritage NZ Pouhere Taonga under the Heritage NZ Pouhere Taonga Act 2014; "lists" heritage on a national list, called "*The List*". This just means that it has recognition as being of heritage value or significance but does not provide any form of protection.

Locally: Territorial Authorities, for example city and district councils, currently schedule heritage items under the Resource Management Act 1991 within their district plans and this gives protection to the heritage item.

The classification and identification processes used in each region and nationally is inconsistent. What might be classed as being hugely significant in one region may not be recognised at all in another area as they use a different set of criteria. This adds to the confusion for the public and with professionals.

The Building Act allows stand-alone two storeyed buildings to be demolished without a consent under the Act, but a consent might be required under the Resource Management Act if the building is Scheduled by the local authority, but not if it is Listed with HNZPT. If it is neither Scheduled or Listed it might still need an Archaeological Authority under the Heritage NZ Pouhere Taonga Act 2014, if it was built prior to 1900 – but this a different to needing a consent with the locally authority.

It is equally confusing that archaeological sites which are often wahi tapu / wahi tupuna / wahi taonga are managed by HNZPT, while they have no jurisdiction over other forms of heritage, which are 'managed' instead by local authorities. Moreover, iwi / hapu cannot

easily prevent Archaeological Authorities that may cause damage and destroy places being granted by HNZPT. To make matters worse for these heritage places, and even more complex for the public, District Councils cannot require someone to get an Archaeological Authority and can only put an advice note on a Resource Consent advising that the applicant should contact HNZPT. The common outcome of this leaves people needing two consents, people often ignore the advice provided by councils, and iwi and hapu are sidelined by this process.

Having these separate identification systems and three different Acts that can affect heritage items, which are not integrated or aligned increases ambiguity and creates unnecessary complexity.

The lack of an integrated heritage management system and inconsistent regulation creates systemic gaps in the regulation framework, resulting in contradictory and conflicting anomalies in the legislation. This includes issues relating to the use of heritage orders, temporary heritage protections and protections relating to eliminate the practice of ‘demolition by neglect’, which all need to be addressed as a matter of national importance under the National Planning Framework.

This RMA Reform process and the proposed National Standards/Directives that will make up the National Planning Framework provide an ideal opportunity to re-examine our current system of identification and protections relating to the Natural and Built environments, to ensure that they are fit-for-purpose; to strengthen them where necessary and to unify them into a coherent suite of National Standards which give clear, consistent direction on all matters relevant to the Natural and Built environments.

OUR SPECIFIC RECOMMENDATIONS

Part 1: Preliminary provisions

Clause 3: Interpretation

Cultural heritage

We support in principle the change in terminology from ‘historic heritage’ to ‘cultural heritage’ as the current term inadequately reflects the breadth of our current and evolving heritage – this includes pre-historic places and more recent places such as post war/early modernist buildings. However, as the term ‘historic heritage’ has been interpreted and applied in a regulatory context for the last 18 years we would caution, that introducing a new term will require careful consideration to ensure that the change does not result in unintended consequences (e.g. unnecessary litigation, formative caselaw).

We note that the proposed definition of ‘cultural heritage’ is largely a roll-over of the current definition of ‘historic heritage’ in the RMA with the following exceptions:

- Reference to ‘aspects of the environment’ instead of ‘natural and physical resources’
- Reference to ‘surroundings associated with those sites’ instead of ‘surroundings associated with natural and physical resources’

With respect to the list of items for interpretation provided under Clause 3, we propose the following amendments or additional definitions:

Add the following to clause 3(a)(i)-(vi):

- vii. social
- viii. spiritual

Amend clause 3(b)(i)-(iii) as follows:

- i. historic sites, structures, places, and areas and their associated surroundings; and
- ii. archaeological sites and their associated surroundings; and
- iii. sites of significance to Māori, including wāhi tapu, wāhi tūpuna or wāhi tapu areas, and their associated surroundings (*This aligns with the definition in the Heritage New Zealand Pouhere Taonga Act 2014*)

Replace clause 3(b)(iv) with the following:

- iv. cultural landscapes

Add a definition of ‘**surroundings**’ as follows (*based on the definition of ‘setting’ in the ICOMOS New Zealand Charter*):

- a) ‘means the area around and/or adjacent to a place of cultural heritage value that is integral to its function, meaning, and relationships; and
- b) includes -
 - i. the structures, outbuildings, features, gardens, curtilage, airspace, and accessways forming the spatial context of the place or used in association with the place; and
 - ii. cultural landscapes, townscapes, and streetscapes; perspectives, views, and viewshafts to and from a place; and relationships with other places which contribute to the cultural heritage value of the place
- c) may extend beyond the area defined by legal title, and may include a buffer zone necessary for the long-term protection of the cultural heritage value of the place’

Add a definition of ‘**cultural landscapes**’ as follows (*based on the definition of ‘cultural landscapes’ in the ICOMOS New Zealand Charter*):

- a) ‘means an area possessing cultural heritage value arising from the relationships between people and the environment; and
- b) includes –

- i. cultural landscapes that may have been designed, such as gardens, or have evolved from human settlement and land use over time, resulting in a diversity of distinctive landscapes in different areas; and
- ii. associative cultural landscapes, such as sacred mountains, that may lack tangible cultural elements but have strong intangible cultural or spiritual associations

Add a definition of ‘**conservation**’ as follows (based on the definition of ‘conservation’ in the ICOMOS New Zealand Charter):

- a) ‘means all the processes of understanding and caring for a place so as to safeguard its cultural heritage value; and
- b) Is based on respect for the existing fabric, associations, meanings, and use of the place; and
- c) Requires a cautious approach of doing as much work as necessary but as little as possible, and retaining authenticity and integrity, to ensure that the place and its values are passed on to future generations.’

Add a definition of ‘**preservation**’ as follows (based on the definition of ‘preservation’ in the ICOMOS New Zealand Charter):

- a) ‘means to maintain a place with as little change as possible’

Add a definition of ‘**restoration**’ as follows (based on the definition of ‘restoration’ in the ICOMOS New Zealand Charter):

- a) ‘means to return a place to a known earlier form, by reassembly and reinstatement, and/or by removal of elements that detract from its cultural heritage value’

Amend the definition of ‘**structure**’ as follows (based largely on the definition of ‘structure’ in the HNZPT Act):

- a) means a thing made by people, whether movable or not, and fixed to the land; and
- b) includes equipment or machinery.
- c) includes shipwrecks

Amend the definition of ‘**precautionary approach**’ as follows:

precautionary approach is an approach that, in order to protect the natural environment and cultural heritage if there are threats of serious or irreversible harm to the environment, favours taking action to prevent those adverse effects rather than postponing action on the ground that there is a lack of full scientific certainty.

We recommended additional definitions are added for the below terms used with in the Bill to ensure consistency of interpretation and understanding:

- **Built Environment** – for consistency of providing definitions on specific types of “environments” include one for the built environment as natural environment currently has a definition.
- **Kawa**
- **Kaitiakitanga**
- **Mana**
- **Mātauranga Maori**
- **Mauri**
- **Te Oranga o te Taiao**
- **Te Mana o te Taiao**
- **Tikanga Maori**

Add the following definitions as per the Heritage New Zealand Pouhere Taonga Act 2014 to ensure consistency between legislation.

- **wāhi tapu** means a place sacred to Māori in the traditional, spiritual, religious, ritual, or mythological sense
- **wāhi tapu area** means land that contains 1 or more wāhi tapu
- **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 tīpuna:
 - b) wāhi tupuna:
 - c) wāhi tipuna

Clause 6. Te Tiriti o Waitangi

We support that, all persons exercising powers and performing functions and duties under this Act must give effect to the principles of te Tiriti o Waitangi.

We are concerned that matters that used to be considered matters of national importance under the current Resource Management Act with respect to iwi and cultural heritage are not being considered as worthy of being a topic that the national planning framework must include.

Part 2: Purpose and related provisions

Clause 5: Purpose of this Act

'Environment' is a defined term under the Act, and by definition includes the natural and built environments.

Under clause 5 (1) there is no specific mention of the Act relating to the built environment.

We recommend that the description of the Act's purpose is expanded to clearly and explicitly state that the purpose is to 'protect and enhance both the natural and the built environments.'

Surely, it is not the intention of the Act to allow for inappropriate built environment development.

Clause 7: Environmental Limits

Amend clause 7 (1) to read

The purpose of environmental limits is to protect either or both of the following:

- (a) the ecological integrity of the natural environment:*
- (b) human health and wellbeing.*

Add 'cultural heritage' to clause 7 (4) as follows:-

- (4) Environmental limits must be prescribed for the following matters:*
 - (a) air;*
 - (b) biodiversity, habitats, and ecosystems;*
 - (c) coastal waters;*
 - (d) estuaries;*
 - (e) freshwater;*
 - (f) soil;*
 - (g) cultural heritage.*

Our cultural heritage is part of our identity as a nation. Once significant elements of our cultural heritage are destroyed, they are gone forever. Like the natural environment, cultural heritage is a limited resource that cannot be replaced.

Cultural Heritage contains embodied energy and is made with resources sourced from elements from the natural environment, so the two parts are intrinsically linked. The destruction of cultural heritage can have a negative effect on the natural environment, as well as to the social, cultural and economic fabric of a community.

The Purpose of the Act Clause 5 (1) (b) and Clause 7 (1) (b) recognises well-being and human health.

The destruction of a community's cultural heritage will have a negative effect on the community well-being and identity. An example of this can be seen with iwi through colonisation and the destruction of their cultural heritage over successive generations.

Environmental limits should apply to both the Natural Environment and to the Built Environment or at least the built cultural heritage elements. Equally, limits on the built environment could relate to the quantity / quality within a development. eg the number of low cost houses or bench marking the number of heritage structures/buildings currently identified. Consideration could be given to utilising our current (or a modified) system of 'Heritage Listings/Scheduling' as the baseline environmental limit for protecting Cultural Heritage within the Built Environment. As stated previously this equates to only around 1-2% of the current building stock. Also, to what extent is the continued destruction of archaeological sites sustainable?

Amend clause 7 (6) to read

All persons using, protecting, or enhancing the environment, and all persons exercising functions and powers under this Act or any other Act, must comply with environmental limits.

Clause 8: Environmental Outcomes

Amend clause 8 to read:

To assist in achieving the purpose of the Act, the national planning framework and all plans must recognize and provide for the following environmental outcomes:.....

The word "promote" is not strong enough and the suggested wording is a more directive expression and given that this section is the core of the Bill the suggested is more authoritative.

ADD to clause 8 (f) wāhi tapu areas, wāhi tūpuna to provide consistency with the Heritage New Zealand Pouhere Taonga Act 2014. The suggested wording is as follows:-

(f) the relationship of iwi and hapū, and their tikanga and traditions, with their ancestral lands, water, sites, wāhi tapu, wāhi tapu areas, wāhi tūpuna and other taonga is restored and protected:

Clause 8 (g) identifies the environmental outcome of "*the mana and mauri of the natural environment are protected and restored;*".

We believe that items of 'cultural heritage' have 'mana' and 'mauri' and should equally be protected and restored. Consideration should be made to adding a new clause relating to this or adjusting clause 8 (g) to include 'cultural heritage'.

Clause 8 (h) introduces the terms 'cultural heritage' and 'cultural landscapes' and the concepts of 'active management' and 'proportionate to cultural values' as follows:

- '(h) cultural heritage, including cultural landscapes, is identified, protected, and sustained through active management that is proportionate to its cultural values'

The inclusion of these terms results in the outcome becoming a confusing conflation of outcome (the what) and policy response (the how), with this being the only occurrence amongst the list of outcomes proposed.

To redress this, we believe that clause 8(h) needs to be recast to solely focus on what is to be achieved (i.e. to identify, protect and conserve cultural heritage), with the how addressed through the proposed NPF and a supporting NPS.

Aside from the confusion created by the current framing of this clause the absence of clarity as to what the terms 'active management' or 'proportionate to cultural values' entail (e.g. is proportionality a proxy for significance?) is also highly likely to result in interpretive and administrative uncertainty and unintended and unnecessary litigation.

Recommended amendment:

Amend clause 8(h) as follows:

- h. cultural heritage is identified, protected, and conserved.

We note that clause 8 (f) does not protect wāhi tapu, wāhi tūpuna etc, but rather looks to restore and protect a **relationship** to these places.

Clause 8 (h) is the clause that gives effect to the physical protection and conservation of these elements of cultural heritage.

Amend clause 8 (k) as follows:

- k) urban areas that are well-designed and responsive to growth and other changes, including by—
 - (i) enabling a range of economic, social, and cultural activities; and
 - (ii) ensuring a resilient urban form with good transport links within and beyond the urban area:

The Act should be aspirational, and the term “well-functioning” falls short of this aim.

Part 3: National planning framework

Clause 9: National Planning Framework

While there is minimal detail available to provide any considered feedback, we support the concept of National Planning Frameworks.

Protection of Cultural Heritage should be considered a matter of national importance and as such, the National Planning Framework should also be accompanied by a National Policy

Statement for Heritage to ensure consistency across Aotearoa as to the treatment of cultural heritage.

Clauses 10 and 13 – Purpose and topics of the National Planning Framework

From a fundamental perspective, we wish to see a system reform that results in:

- The increased protection / retention of cultural heritage
- An increase in the associated economic, environmental and social benefits;
- More certainty for local authorities, owners and developers and the decrease in administrative and compliance costs;
- A more efficient and consistent sector in regards to performance.

Considering this, we are highly supportive of central government providing a nationalised strategic and regulatory direction on the use, protection and enhancement of the natural and built environment, including cultural heritage. This is intended to be implemented through the NPF, which we feel a supporting National Policy Statement will also prove helpful.

In addition, we see that clause 10 of the exposure draft identifies the purpose of the NPF as being to ‘further the purpose of this Act by providing integrated direction on—

- (a) matters of national significance; or
- (b) matters for which national consistency is desirable; or
- (c) matters for which consistency is desirable in some, but not all, parts of New Zealand’.

Clause 13(1) of the draft then goes on to list topics that the NPF must include, with the two notable exclusions from the current Resource Management Act clause 6 being –

- ***the protection of historic heritage from inappropriate subdivision, use, and development*** and
- ***the relationship of iwi and hapū, and their tikanga and traditions, with their ancestral lands, water, sites, wāhi tapu and other taonga.***

Issues centered around the identification, protection and management of cultural heritage, including Māori heritage, are long standing and were identified and extensively canvassed in the Parliamentary Commission for the Environment investigation into Historic and Cultural Heritage in New Zealand in 1996, the government initiated Historic Heritage Review in 1998-1999 and recent stakeholder outreach undertaken in 2018 by the Ministry of Culture and Heritage as part of the Strengthening Heritage Protection project.

A key theme that has emerged from each of these exercises is the absence of clear direction to achieve more effective and consistent identification and protection of historic/cultural heritage.

In response the Parliamentary Commissioner recommended that central government ‘*develop, as a priority, a detailed strategy for historic and cultural heritage management*’.

The Ministerial Advisory Committee, established to support the Historic Heritage Review, recommended that central government ‘prepare a NPS for historic heritage within 2 years of the

enactment of legislative amendments to the RMA' (these being provisions to strengthen the recognition and protection of historic heritage under the RMA, and introduced via the RM Amendment Act 2003).

The Ministry of Culture and Heritage has been in recent years scoping the need for national direction on heritage protection as part of the Strengthening Heritage Protection project.

Against this background, our two organisations are both alarmed and highly concerned that cultural heritage and the relationship of iwi and hapū, and their tikanga and traditions, with their ancestral lands, water, sites, wāhi tapu and other taonga have been omitted from the list of mandatory NPF topics.

This is particularly disturbing as both matters clearly satisfy the proposed criteria outlined in clauses 10(a)-(b) of the exposure draft as well as the rationale for issuing national direction outlined on the Ministry for the Environment's website (<https://environment.govt.nz/what-government-is-doing/areas-of-work/rma/about-national-direction-under-the-resource-management-act/>):

- The issue is of national importance and greater direction should be provided to local authorities at a national level to give certainty and consistency;
- The issue involves significant national benefits or costs;
- The costs of local variation outweigh the benefits;
- It is necessary to give effect to other Government policy or regulation, such as the New Zealand Energy Strategy or of particular relevance here is the current Policy for Government Departments' Management of Historic Heritage 2004;
- The issue relates to Government obligations including the Treaty of Waitangi and international obligations – of particular relevance here are the government's obligations under
 - the Treaty of Waitangi, and
 - being a signatory to the Convention Concerning the Protection of the World Cultural and Natural Heritage (1972) and
 - its membership of the International Centre for the Study of the Preservation and Restoration of Cultural Property.

Based on this we are strongly of the view that both of these topics should be included in the mandatory list set out in clause 13(1). Additionally, their inclusion in the list would ensure that they are given full effect in the development of proposed Natural and Built Environment Plans (refer clause 22(1)(b)).

As 'cultural heritage' is a defined term in the Act that encompasses all cultural heritage, including sites of significance to Māori, we believe that the following single addition to the clause 13 (1) would capture the two matters from the current Resource Management Act clause 6 - matters of national importance that have been omitted under the national planning framework.

Recommended amendment:

- Amend clause 13(1) to include the following:
 - j. section 8(h)** (cultural heritage);

Clause 14. Strategic directions to be included

We support the strategic directions provided for in the clause, especially clause 14 (b) as this gives effect to the act of kaitiaki of our cultural heritage for future generations, should section 8(h) be amended as we have suggested to include cultural heritage.

Clause 17. [Placeholders for other matters]

Comment:

We see a strong link between these this Act and the Climate Change Response Act 2002 through the conservation of our cultural heritage, particularly when it comes to building waste and embodied energy related to existing structures

18. Implementation principles

We support clause 18 (a) promote the integrated management of the environment as the 'environment' includes both the natural and built environments. The 'built environment' subsequently includes elements of cultural heritage.

We would suggest that an additional clause should be added based on cultural heritage being included under clause 13 (1)

Add:-

18 (h) implement the use of repairs and maintenance plans for cultural heritage and where appropriate adaptive reuse.

Part 4: Natural and built environments plans

We look forward to the additional detail relating to the formation of each regions plans.

It is important to recognise that Cultural Heritage is intrinsically local and must be anchored within its context and to the people of area in which it exists. Our cultural heritage relates to the stories of the people and place that cumulatively shaped New Zealand into the country that we have today.

22. Contents of plans

Amend clause 22(1)(c) as follows:-

(c) **recognize and provide for** the environmental outcomes specified in section 8 subject to any direction given in the national planning framework;”

The terms of reference asked the following -

3. The select committee is also asked to collate a list of ideas (including considering the examples in the parliamentary paper) for making the new system more efficient, more proportionate to the scale and/or risks associated with given activities, more affordable for the end user, and less complex, compared to the current system.

We recognise the efficiencies of having far less District Plans for resource management practitioners. We expect that this will extend to the detail in the plans and welcome the use of templates.

It is important that there is commonality in definitions for example what is a *building*. The definition of building affects basic parameters like site coverage and setbacks to boundaries. A possibility is to use the Building Act definition but experience has shown that territorial authorities interpret what is building in different ways.

Heritage New Zealand Pouhere Taonga (HNZPT) currently has an advisory and advocacy role in the protection of cultural heritage apart from the historical anomaly that it has statutory responsibility for the management of the damage and destruction of archaeological sites without iwi/hapu being able to effectively stop the process.

This is contrary to the principles of Te Tiriti o Waitangi and not an example of partnership. We consider the archaeological provisions of the HNZPT Act 2014 should be moved from HNZPT Act and be integrated into the NBE planning process like all other cultural heritage (and cultural landscapes). This would:

- Support the principles of Te Tiriti o Waitangi enabling iwi hapu to be partners in the management of their cultural heritage and have kaitiakitangi and other cultural practices over their heritage places. This would give effect to clause 8 (f) of the NBE Act.
- Assist with the management and protection of archaeological sites by including them in the one consent process.
- Provide efficiencies, reduced costs and dispelling the confusion many people have with the current dual system.
- Enable better integration of other legislation e.g., the Building Act which allows for the demolition of stand-alone two storied buildings without a consent when many are archaeological sites as defined by HNZPT Act 2014 where pre-1900 buildings cannot be demolished without an authority.

The practice of dealing with heritage buildings at the moment does not include modern digital technology as much as it could and should. At the same time, due to the fast-growth of our cities and towns – our heritage is disappearing. We recommend greater use of modern digital technologies in domestic conservation practice – preventive protection of architectural heritage through the procedures of its digitisation and documentation. The use of modern digital technologies not only facilitates and improves conservation practices and processes, but also enables the creation of a digital database. The practice of dealing with heritage buildings in New Zealand can/should be enhanced through the use of modern digital technologies.

Our recommendation is:

It is necessary to develop an approach and methodologies for digital archiving of heritage buildings in Aotearoa. In that case, even if we cannot keep the physical heritage item, we can at least record it with new digital technology. Through that, we help to recognise its enduring value and make it accessible to future generations.

The community benefits of digital scanning include:

- Having a “digital heritage” made up of computer-based materials of enduring value, recorded for and is accessible to future generations.
- An active preservation approach is developed so that the continuity of the heritage building is maintained. Digital data enables close monitoring of the rate of decay or damage to structures.
- A digital library of information exists which could be used to remediate the building in the case of natural or other disasters. Digital data gives precise measurements that can be used to repair and conserve irreplaceable heritage sites.
- A new generation of architects learn about the importance of heritage protection and preservation and how to work collaboratively with local communities and agencies towards a common goal.
- Digital data enables the creation of digital models and virtual tours, which allow remote access to inaccessible or dangerous areas from specialist nationally and across the world through virtual reality.

Appendix A – Submission contributors

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