

ICOMOS NEW ZEALAND
TE MANA O NGA POUWHENUA O TE AO
INTERNATIONAL COUNCIL ON MONUMENTS AND SITES
CONSEIL INTERNATIONAL DES MONUMENTS ET DES SITES
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Submission to the Environment Committee: Urban Development Bill

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Introduction

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.

In 1993, ICOMOS New Zealand published the ICOMOS New Zealand Charter for the Conservation of Places of Cultural Heritage Value. A revised ICOMOS New Zealand Charter was published in September 2010 and is available on the ICOMOS New Zealand website. The heritage conservation principles outlined in the ICOMOS New Zealand Charter are based on a fundamental respect for significant heritage fabric and the intangible values of heritage places.

ICOMOS New Zealand has 140 members made up of professionals with a particular interest and expertise in heritage issues, including architects, engineers, heritage advisers, archaeologists, lawyers, and planners. ICOMOS New Zealand members are experienced and qualified heritage professionals, many of whom have worked thousands of hours in New Zealand's planning system. Many have also worked in heritage overseas.

Scope of this submission

ICOMOS NZ welcomes the opportunity to comment on the Urban Development Bill currently before the Environment Committee.

We note that a key driver behind the Bill is a desire to change the ways our cities develop in order that they can 'make room for growth and thrive', and for this to 'happen at a scale and pace so everyone in New Zealand can live in healthy and safe homes in sustainable communities and have opportunities to achieve success'.

While ICOMOS NZ acknowledges the unprecedented growth pressures many of our cities are currently experiencing (e.g. unaffordable housing, rising land prices, infrastructural deficits, inadequate transport choice), we would caution that embarking on 'transformational urban

development projects' to accommodate growth should not be at the expense of compromising our rich and diverse historic and cultural heritage, particularly as this provides:

- Present and future residents with a tangible link to their past and positively contributes to their sense of local and neighbourhood identity
- New neighbourhoods with a degree of character and distinctiveness that contributes positively to their urban quality and helps support the regeneration and sustainable cultural, social and economic functioning of residents, thereby enhancing the quality of their everyday lives and overall well-being

To this end we note that the Bill incorporates a number of safeguards intended to help protect historic heritage values within specified development projects, including:

- Prevalence of the Heritage New Zealand Pouhere Taonga Act 2014 in the event of any inconsistency (cl.16)
- Identification of constraints and opportunities that could impinge on potential archaeological and historical heritage values (cls.33(a) and 34(e))
- Specific engagement with Heritage New Zealand Pouhere Taonga, including seeking recommendations on the protection or enhancement of historic heritage values within proposed project areas (cls.35(3)(c) and 35(4)), along with relevant Maori entities (cl.35(1)) and the Minister of Conservation in relation to any historic reserves in or adjoining the proposed project area (cl.35(3)(h))
- Preparation of an assessment report that outlines, amongst other matters, how any Heritage New Zealand Pouhere Taonga recommendations have been considered (cl.41(2))
- Consideration of relevant heritage related provisions (including listed heritage places/features) in regional policy statements, regional plans and district plans when preparing any associated development plans (cl.69)
- Preparation of an evaluation report that includes, if relevant, a statement outlining how identified heritage values and any associated Heritage New Zealand Pouhere Taonga recommendations are provided for in a draft development plan (cl.73(1)(b)), as well as a broad assessment of the likely effects of the proposed development on these values (cl.73(1)(c))
- Exemption of any objective, policy, rule or other method relating to historic heritage in a planning instrument being overridden by a draft development plan, unless the plan proposes changes that impose more stringent historic heritage management or protection requirements (cl.91(2))
- Recognition of existing heritage orders when designating land for other purposes within a project area (cl.139(4)(b))
- Recognition and continued application of registered heritage covenants on any land compulsory acquired for the purposes of the project (cl.253(2)(d)(ii))

In addition we note that proposed projects will also need to be consistent with relevant national instruments (cl.60) which may, in future, include historic heritage related national direction currently being developed by officials at the Ministry for Culture and Heritage and the Ministry for the Environment.

ICOMOS NZ strongly supports these intended safeguards and recommends that they be retained within the Bill. If appropriately administered and implemented we consider they offer

the potential to meaningfully inform more constructive outcomes for places of historic heritage value situated within proposed development project areas.

Regardless, we are of the view that there are some aspects of the Bill that could benefit from further minor amendment to ensure that historic heritage within future project areas is more extensively recognised and protected. These are as follows:

Clause 20 - Protected Land

This clause prohibits any power in the Bill being used on identified protected land, including:

- Reserves and national parks
- Maori customary land and reservations
- Common marine and coastal areas subject to recognised customary marine title or protected customary rights
- Other significant land (e.g. natural features declared as legal entities or persons)

Although supportive of the intent of this clause we note that it omits reference to certain types of land that are of crucial importance from an historic perspective, particularly:

- Historic reserves under the Reserves Act 1977
- Land subject to a heritage order under the Resource Management Act 1991
- Land subject to a heritage covenant under the Heritage New Zealand Pouhere Taonga Act 2014
- Places of outstanding national heritage value included on the National Historic Landmarks List/Ngā Manawhenua o Aotearoa me ōna Kōrero Tūturu

To redress this situation we recommend the following changes to the Bill (underlined):

1. Amend clause 20(2)(a) as follows:

‘land classified as a nature reserve, a historic reserve or a scientific reserve under the Reserves Act 1977’

2. Amend clause 20(2) to include the following under ‘Other Significant Land’

‘(k) Places of outstanding national heritage value included on the National Historic Landmarks List/Ngā Manawhenua o Aotearoa me ōna Kōrero Tūturu

(l) Land subject to a heritage order under the Resource Management Act 1991

(m) Land subject to a heritage covenant under the Heritage New Zealand Pouhere Taonga Act 2014’

Clause 69 - Relevant Considerations

This clause identifies a range of documents that need to be considered, where relevant, in preparing a development plan for any proposed project. These include:

- Regional policy statements, regional plans, and district plans
- Regional land transport/public transport plans
- Long term plans
- Key urban design qualities in the New Zealand Urban Design Protocol

An area of relevance that is currently excluded from this list is explicit consideration of the New Zealand Heritage List/Rārangi Kōrero, a prime purpose of which is to act as a source of information about historic places, historic areas, wāhi tūpuna, wāhi tapu, and wāhi tapu areas to facilitate more effective implementation of the Resource Management Act.

Although regard for the list is required by local authorities in preparing or changing regional and district plans (ss.66(2)(c) and 74(2)(b) RMA), ICOMOS NZ considers that clear reference to the New Zealand Heritage List in the Bill would reinforce the need for any relevant entries to be explicitly considered as part of the development plan process.

In response, we recommend the following change to the Bill (underlined):

1. Amend clause 69(1) as follows:

‘(g) any relevant entry on the New Zealand Heritage List/Rārangi Kōrero administered by Heritage New Zealand Pouhere Taonga under the Heritage New Zealand Pouhere Taonga Act 2014’

Clause 88 - Appeal rights in relation to development plan

ICOMOS NZ notes with concern that the Bill proposes to limit the scope of appeals on draft development plans solely to points of law. We consider that the current wording of this clause is highly restrictive and has the potential to severely curtail useful discourse relating to the merits of proposed development projects, particularly those that could significantly impact on the values of heritage places located within the project area or that fly in the face of recommendations made by Heritage New Zealand Pouhere Taonga.

It also places unrealistic pressure and expectations on all participants involved in the initial hearing process to fully identify, debate and exhaust the merits of a proposed project sufficient for an independent hearing panel to reach a reasoned, well informed position on the proposal - something that is unlikely to occur given the nature and complexity of the projects that are nominated for consideration as ‘specified development projects’.

To address this situation we recommend that the scope of this clause is extended to include an opportunity for the merits of a draft development plan to be considered by a specialist judicial body such as the Environment Court.

ICOMOS NZ wishes to thank the Committee for the opportunity to raise the matters outlined within this submission. If helpful, we would also be happy to appear before the Committee to further expand on the matters raised.

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