

ICOMOS AOTEAROA NEW ZEALAND
TE MANA O NGA POUWHENUA O TE AO
INTERNATIONAL COUNCIL ON MONUMENTS AND SITES
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Submission to the Environment Committee
Resource Management (Consenting and Other System Changes) Amendment Bill
10th of February 2025

Introduction

ICOMOS is a non-governmental international organisation dedicated to the conservation of the world's monuments and sites. Founded in 1965, the organisation is a principal advisor to UNESCO and includes over 10,000 members in 132 countries and territories.

ICOMOS Aotearoa New Zealand (ICOMOS NZ) is an incorporated society whose members include architects, engineers, heritage advisers, experts in Te Ao Māori, historians, archaeologists, lawyers, and planners.

The [ICOMOS New Zealand Charter for the Conservation of Places of Cultural Heritage Value](#) is the benchmark for conservation standards and practice in Aotearoa New Zealand. 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

New Zealand retains a unique assemblage of places of cultural heritage value relating to its indigenous and more recent peoples. New Zealand shares a responsibility with the rest of humanity to safeguard its cultural heritage places for present and future generations.

ICOMOS NZ has considered the content of the Resource Management (Consenting and Other System Changes) Amendment Bill (RM(COSC)A Bill) which has the purpose of simplifying the planning system. Of particular interest are the provisions in the Bill that allow for heritage buildings and structures to be removed from district and regional plans using a simplified planning process.

Scope of this submission

In light of this context ICOMOS NZ welcomes the opportunity to submit on the RM(COSC)A Bill. ICOMOS NZ is a professional organisation which understands the need for certainty in consenting process. We note, however, the wide-ranging concerns jointly raised by the Ministry for the Environment, the Ministry for Culture and Heritage and the Ministry for Housing and Urban Development in the proactive public release of the Regulatory Impact Statement - Better managing outcomes for historic heritage (RIS) that accompanied introduction of the proposed Bill. These include:

- That heritage is a public good that is protected as a matter of national importance in the Resource Management Act 1991.
- That the retention and conservation of heritage buildings provides wide-ranging public benefits.

The RIS also:

- Provides a problem definition that identifies some inconsistency in the application of district plan rules, and concerns over property rights expressed by some owners or developers of heritage places.
- Identifies that the scale of the issue is limited to a small portion of landowners in New Zealand.
- Identifies that a driver for the Bill is concern from the Wellington City Council about the heritage status of two buildings – the Gordon Wilson Flats and the Wellington Town Hall.

It notes that better outcomes for managing historic heritage in relation to the problem include the following:

- Provide greater certainty.
- Reduce compliance costs.
- Maintain or improve the protection of heritage places.
- Ensure a consistent approach across the country.

In response the RIS considers six options to address the following overarching concerns, of which two are redacted. The publicly available options are:

- Option 1 - Do nothing / status quo.
- Option 2 - Provide national direction for historic heritage.
- Option 3 - Enable councils to use a Streamline Planning Process (SPP) to remove heritage items for district plan heritage schedules – as per the current RM(COSC)A Bill.
- Option 4 - Allow councils to remove buildings from district plan heritage schedules by council resolution.

It concludes that Option 2 – to provide national direction for heritage would provide wide-ranging benefits to owners, territorial authorities, and the wider public.

We have read and **fully support** the evidence and conclusions reached by the joint Ministries on this matter, and agree that the best overall outcomes would be achieved by providing national direction for historic heritage, noting that it is our understanding that this

will form part of a suite of new and revised national direction intended to be introduced mid-2025.

In light of this we query the need and haste to introduce this proposed change at this juncture and strongly consider that this matter would be more appropriately addressed in the context of proposed national direction.

Specific Concerns

1. Delisting of Heritage Buildings/Structures

Based on our review of the associated RIS we are concerned that the proposal relating to the delisting of heritage buildings and structures (cl.20) lacks sufficient evidence to suggest that the current Schedule 1 process is a problem of sufficient magnitude to justify the degree of regulatory intervention proposed. This is a position that sits uncomfortably with the Government's stated intent that any such intervention needs to be proportionate and 'evidence based'.

Further, contrary to the description contained in the explanatory note to the Bill, we note that this proposal solely relates to delisting heritage buildings or structures, and that a parallel ability to utilise the SPP to list heritage buildings or structures is noticeably absent. Given that protection of historic heritage is a matter of national importance (s6(f)) we consider that this is a fundamental oversight and advocate that provision should also be extended to include listing as well as de-listing if this proposal is progressed. Doing so, in our view, would offer a beneficial alternative to address the potential threat resulting from the demolition or redevelopment of significant heritage buildings or structures unintentionally omitted from current heritage lists.

To achieve this we would recommend that s.80C(2) be amended as follows:

(eb) the proposed planning instrument will enable the addition of buildings or structures warranting heritage protection to a heritage list in a plan:

2. Streamlined Planning Process (SPP) (cls.70(13-15) & (21))

In the absence of national direction and clarity regarding the scope of what might be contained in a 'statement of ministerial expectations and directions' we assume that the SPP process will determine the appropriateness of de-listing based on objectives and policies in the relevant District Plan. As each Plan differs, and not all have specific criteria and principles relevant to de-scheduling buildings, we note that the SPP will likely result in inconsistent decision making around removal of heritage protection. Consequently, ICOMOS NZ considers that national direction for historic heritage as preferred by the joint Ministries in the supporting RIS, is necessary to support the SPP, noting that this could include criteria and principles to inform the de-scheduling process. The joint Ministries consider (RIS, p.82) that the SPP process could be implemented alongside national direction – a position that ICOMOS NZ concurs with.

Criteria and principles for de-scheduling could consider factors such as physical condition and the impact of required repairs on heritage values, engineering and financial costs. ICOMOS NZ considers that for balanced decisions to be made on de-scheduling, the benefits of heritage retention (economic, social, cultural, environmental) should also be key factors for consideration. A requirement to quantify these positive benefits in order that they can be appropriately weighed against the economic costs is recommended. Guidance for

applicants and local authorities on how to quantify these positive benefits is also needed, noting that there are usually alternative options to demolition available and heritage buildings have capacity to be sustainably adapted to new uses. Evidence of appropriate consideration of alternatives to demolition should be a requirement of the SPP process.

3. Panel membership

We note that changes are now proposed to the ‘front end’ of the process that enable the Minister to appoint up to half the members of a panel, and direct both the composition of the panel and the expertise required (amended s.78(4)). Although this provision is discretionary and is assumed to have been introduced to enable a degree of ministerial oversight in the decision making process the optics, if rigorously exercised, could raise natural justice concerns. For example, due to the potential political weighting of a panel and the directive that it have particular regard to the responsible Minister’s statement of expectations relating to a proposed housing planning instrument (new Schedule 1, cl 84(3)).

On balance we do not consider this appropriate, and request the Bill is amended to remove this degree of ministerial discretion. While we accept that the Minister should have the ability to provide direction on the expertise of the panel as per Schedule 1, Clause 75A(4B) (a) and (b), we consider the final appointment of the panel members should more appropriately sit with councils. Removing this provision also eliminates any risk of actual or perceived political bias.

Additionally, we recommend that panel members selected for any SPP process involving heritage de-listings must include panel members that have relevant heritage related experience.

4. Process diagrams

We note that the standard plan-making process diagram shows a standard plan change going to the Supreme Court – in our experience, most plan changes do not proceed this far, and it is unusual for them to even go to the High Court. In fact, many plans become operative after the Council’s decision or as a consequence of mediation and a subsequent appeal notice. In order to more fairly compare the standard process and the SPP, the possible shorter process pathway to ‘operative’ after a Council decision should be added to the standard plan-making process, in a similar way to the SPP process diagram.

ICOMOS NZ trusts that the matters raised in this submission will assist the Committee’s inquiry into the Bill. To reinforce these we would also like an opportunity to make a further oral presentation to the Committee.

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