



19/02/2023

Tēnā koutou

NZAA SUBMISSION TO THE ENVIRONMENT SELECT COMMITTEE ON THE NATURAL AND BUILT ENVIRONMENTS BILL

Submitter details

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The New Zealand Archaeological Association (NZAA) welcomes this opportunity to provide feedback on the Natural and Built Environments Bill (NBEB). We are looking forward to engaging with the Environment Select Committee on the development of legislation that enhances the management and protection of Aotearoa's cultural heritage.

We wish to make a further oral presentation to support our written submission.

The key points of our submission are summarised below:

1. Overall, we support the intention of the NBEB to give greater protection to the environment and shift to the promotion of positive outcomes.
2. Support the written submission of ICOMOS New Zealand on the Natural and Built Environments Bill (5th February 2023), and most of the points raised in the submission by Heritage New Zealand Pouhere Taonga (30th January 2023).
3. We are concerned how the proposed National Planning Framework (NPF) will effectively provide for cultural heritage. While a national direction for cultural heritage has been recommended, there is no indication on when this will be prepared. National direction will provide clarity and consistency on how regional authorities will provide mechanisms to identify, manage and conserve cultural heritage within regional NBE plans. Further, it will provide consistent guidance on the evaluation and protection of cultural heritage values. We request that the NZAA and other heritage organisations are adequately consulted on the development of the NPF and any national policy/direction on cultural heritage.
4. Request clarification how the new legislation proposed through the Resource Management Reform will integrate with the Heritage New Zealand Pouhere Taonga Act (2014).
5. We are concerned how the effects management framework principles of offsetting and redress will be translated from an ecological to cultural heritage context. There is limited published literature providing sound analysis and case studies of these principles in a cultural heritage setting, and specifically archaeological sites, to achieve positive outcomes. We require further clarification of these matters to determine their appropriateness to achieve the system outcomes of the NBE Bill.



6. Support a move from multiple Regional and District Plans to fewer NBE regional plans. However, we request that regional and local cultural heritage is recognised, and sufficient resources are allocated across the regional level to ensure these are adequately managed.
7. We request that any fast-track pathway in the RMA reform system needs to be carefully considered and monitored by MfE. Particularly to ascertain the appropriateness of this approach with regards to cultural heritage.

The New Zealand Archaeological Association

The New Zealand Archaeological Association (NZAA) is the national organisation for archaeology, with over 380 members spanning professionals, amateurs, students, organisations, businesses, and institutions involved or interested in Aotearoa's archaeology and history. Our objectives are to promote and foster research into the archaeology and history of Aotearoa. Above all we encourage the protection of cultural heritage, particularly archaeological sites. We do this in a range of ways, one of which is by engaging with government and local authorities for the recognition and protection of our cultural heritage. An important part of our kaupapa is the management of ArchSite, the national database of recorded archaeological sites. This web-based service is essential to the identification, management and protection of archaeological sites. To date, it contains information about more than 80,000 recorded archaeological sites, most of which are Māori in origin. There are many more unrecorded archaeological sites in Aotearoa. ArchSite is also a critical tool for regional and territorial authorities in the management and conservation of cultural heritage.

Archaeological sites and features contain unique and irreplaceable evidence of the human history of Aotearoa. Archaeological research studies all periods of Aotearoa's history, from the first visits by Polynesian voyagers, to the exploration and settlement of Aotearoa by Māori, representing the last significant land mass to be colonised, the emergence of a distinct Māori culture and society from East Polynesia, megafaunal extinctions and human adaptations to new and changing environments and climates, through to the development of modern cities and industries by a diverse range of people and cultures. Archaeology provides details about aspects of people's daily lives, such as what people ate, the tools they used and how their houses were constructed. Archaeological sites include both above and below ground activity, including standing structures. These details are not always captured by traditional, oral, or recorded histories but are vital for understanding past environments, economies, and lifestyles. The archaeology and history of New Zealanders is significant on local, national and international levels.

We recognise that the unique and diverse heritage across the country contributes to one's overall well-being by reinforcing our sense of place and identity and providing a legacy for future generations.



We must ensure that the cultural diversity of New Zealand is reflected in our archaeological and heritage sites, to provide equitable access to culture for future generations (Potts 2021¹).

Resource Management Act reforms: our position

Places of cultural heritage value, including archaeological sites, should be seen as contributing to Aotearoa's sense of national identity, and our economic and cultural well-being, rather than as an impediment to development. These sites and places contribute essential information to our understanding of our past and are critical elements of our built and cultural environments. NZAA believes that cultural heritage, which includes archaeological sites, should continue to be recognised and managed as a matter of national significance. This needs to be achieved through legislation, national policies and direction, and sound planning standards, to ensure national consistency.

Currently the Heritage New Zealand Pouhere Taonga Act (2014) provides blanket national protection for all archaeological sites as per its definition. Additionally, on a regional or local level the Resource Management Act (RMA) (1991) provides a framework for more structured review, evaluation, and protection of historic heritage, which includes archaeological sites. Under the RMA, practitioners can often apply stronger mechanisms for the avoidance, remediation or mitigation of effects to achieve more proactive and positive heritage outcomes.

Fundamental to NZAA's position on the reform of the Resource Management Act is that archaeological sites cannot be replaced – once damaged or destroyed, they are gone forever. A proactive approach needs to be taken to effectively manage our cultural heritage and the destruction, damage or modification of archaeological sites and landscapes should be avoided wherever possible, with positive cultural heritage outcomes sought to ensure a more sustainable approach to the protection of our cultural heritage. Further, the identification, management and protection of cultural heritage, including archaeological sites, needs to be nationally consistent, and in accordance with international best practice. The management of archaeological sites with Māori cultural associations must involve tangata whenua to ensure that cultural, spiritual and traditional values are identified, recognised and provided for. The significance of important cultural landscapes (including archaeological sites) must be recognised, and the management of these landscapes must protect their values.

When avoidance of archaeological sites is not possible, provisions to minimise and mitigate the effects of the damage are required, and at a minimum the loss of any archaeological data must be recorded, following archaeological best practice. The information resulting from this work should be made publicly available, particularly for those groups whose cultural heritage sites have been affected.

Feedback on the Natural and Built Environment Bill

NZAA supports the intention to improve the protection of Aotearoa's natural and built environments, which includes our cultural landscapes and archaeological sites. We acknowledge that there are intense development pressures, particularly with regard to housing, and that development needs to take place, but within parameters that protect the environment, including the natural and cultural elements. We recognise the importance of giving effect to the principles of Te Tiriti o Waitangi and Te Ao Māori. We believe that it is crucial to work in partnership with Māori to facilitate the management

¹ Potts, Andrew (2021) "The Role of Culture in Climate Resilient Development", UCLG Committee on Culture Reports, n°10, and Climate Heritage Network (Working Group 5), Barcelona, 5 November 2021. Page 36



of our natural resources and cultural heritage, particularly given the predominance of Māori archaeological sites in Aotearoa's archaeological record. Many of these sites are also wāhi tapu or wāhi tupuna, and/or part of important cultural landscapes. We are also acutely aware of the risks natural hazards pose to the integrity of cultural heritage, particularly those hazards exacerbated by climate change, as most archaeological sites are located in coastal or vulnerable environments.

Whilst the proposed NBE Bill provides for greater engagement of Māori in the protection of their cultural heritage sites, improves provisions for heritage protection orders, removes the split jurisdiction over coastal sites through the development of RSS and combined NBE plans, affords greater protection of Category 1 listed places (and those that meet the criteria), wāhi tapu, wāhi tapu areas and wāhi tupuna through their inclusion as specified cultural heritage; it is unclear how the Bill addresses the mechanisms, including timeliness, of how regional and local councils identify and protect cultural heritage through NBE Plans, and the issue of demolition by neglect.

Further clarification is needed as to how the entire reformed RMA system will manage cultural heritage across different Acts and mechanisms, how the "Future for Local Government Review" will impact the functions of local government to effectively manage cultural heritage, and whether a review of the HNZPT Act 2014 is being considered.

Additionally, we strongly support the recommendations provided in the MfE review (2022) that national direction will be developed for cultural heritage and the relationship of iwi and hapū, and their tikanga and traditions, with their ancestral lands, water, sites, wāhi tapu and other taonga². While further certainty is needed regarding timeframes for this development, it will address many concerns around ensuring positive outcomes for cultural heritage, practically within the proposed national planning and effect management frameworks.

In preparing this submission, we reviewed the submissions by Heritage New Zealand Pouhere Taonga (31 January 2023) and ICOMOS New Zealand (5 February 2023) on this Bill. Both organisations support the development of a national policy statement for cultural heritage to inform the National Planning Framework (NPF), and the stronger recognition of Māori heritage and involvement. In terms of system and legislative efficiencies, the submissions by HNZPT and ICOMOS NZ raise valid points and provide suitable recommendations to reduce uncertainty and complexities in the Natural and Built Environments Bill (NBE). Additionally, they provide recommendations to improve the mechanisms of heritage management through improving relevant definitions (i.e. specified cultural heritage), comments on the effects management framework, and including a wider list of relevant parties to consult with in plan development and fast-track application processing. We support these recommendations and have carried over relevant points into our feedback.

However, while we support the main crux of the HNZPT submission, we consider that it is strongly focused on the management of archaeological sites through the archaeological authority process (i.e. protection through preservation by record). We feel our submission provides stronger recommendations for the management and protection of archaeological (and other cultural heritage)

² MfE (2022), Our Future Management System: Overview, pg. 19. and ICOMOS NZ Submission accessed at: https://icomos.org.nz/wp-content/uploads/2023/02/ICOMOS_NBE_Bill_submission_final_20230205.pdf



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sites within an RMA framework. Four specific areas of variation include – the ‘cultural landscapes’ and ‘environment’ definitions, offsetting and redress principles, and the fast-track application process.

Appendix 1 provides our detailed feedback on specific clauses. To avoid duplicating the points raised in the submissions by HNZPT and ICOMOS NZ, we have limited our submission to providing additional feedback on those clauses within the Bill that have not been raised within their submissions, where we have additional comments, and where our position differs.

Table 1: Natural and Built Environments Bill feedback on specific clauses– NZAA comments and recommendations

Note: recommended text to be included is underlined, with that to be deleted ~~struck out~~

Topic	Sub-topic	Clause	Support	Support in part	Oppose	Reason/s	Recommendation
Purpose & Preliminary Matters	Purpose	cl.3				We support the reasons and recommendations provided in the written submission of ICOMOS NZ. The intention of these recommendations is to provide more sound wording to support the ‘outcomes focussed’ emphasis of the Bill.	<p>1. Amend cl.3(a)(ii) as follows: (ii) promotes <u>achieves</u> outcomes that for the positively benefit of the <u>natural and built</u> environment</p> <p>2. Provide further direction or guidance to inform how the concept of te Oranga o te Taiao is to be interpreted and implemented in practice, including further clarity to assist interpretation of the terms ‘recognise’ and ‘uphold’</p> <p>3. Amend cl.3(a) as follows: <u>‘ensure the natural and built environment is protected and its use and development enabled</u> in a way that —‘</p> <p>4. Include a consequential definition of ‘built environment’ in cl.7 - Interpretation (noting that a separate definition of natural environment is already included)</p>
	Te Tiriti o Waitangi	cl.4				<p>We strongly support the inclusion of a strengthened Te Tiriti o Waitangi clause.</p> <p>Further we support the recommendations provided in the submission of ICOMOS NZ to provide further direction on how these principles are to be given effect to within this legislative framework.</p>	<p>1. Either:</p> <p>(a) Include specific direction in the first iteration of the National Planning Framework (NPF) to clarify the practical implications of this directive and what these mean in practice</p> <p>(b) Develop companion guidance to assist understanding of the shift in practice required by those charged with exercising RMA related powers and functions/duties</p>
	System outcomes	cl.5				<p>Support overall purpose and focus on managing adverse effects and achieving positive outcomes</p> <p>Support inclusion of clause 5 e and g, as matters to be specifically provided for in the national planning framework and Natural Built Environment (NBE) plans.</p> <p>However, we request that demolition by neglect is also addressed in the system outcomes and that clarification is provided to state these outcomes are not listed in a hierarchical order. Other sections of our submission address providing clarification on conflict resolution and weighting of outcomes.</p>	<p>1. We request that demolition by neglect is also addressed in the system outcomes and that clarification is provided to state these outcomes are not listed in a hierarchical order.</p>
	Definitions	cl.7					
		Cultural heritage -					<p>We support the proposed definition of cultural heritage as it appropriately encompassed the diversity of Aotearoa’s heritage places. It further recognises the intersection and relationship between cultural heritage and the natural and built environments. This holistic view</p>

Topic	Sub-topic	Clause	Support	Support in part	Oppose	Reason/s	Recommendation
						<p>supports greater appreciation and recognition of cultural heritage places and supports positive heritage outcomes, particularly when considering cultural landscapes.</p> <p>The NZ ICOMOS charter provides a strong definition for cultural landscapes based on international best practice. We support this definition over the draft wording provided in the HNZPT submission.</p> <p>We request that a definition of cultural landscapes is provided.</p>	<p><u>Cultural Landscapes</u></p> <ol style="list-style-type: none"> 1) <u>mean an area possessing cultural heritage value arising from the relationships between people and the environment; and</u> 2) <u>includes-</u> <ol style="list-style-type: none"> a) <u>Cultural landscapes that may have been designed, such as gardens, or may have evolved from human settlement and land use over time, resulting in a diversity of distinctive landscapes in different areas; and</u> b) <u>Associative cultural landscapes, such as sacred mountains, that may lack tangible cultural elements but have strong intangible cultural or spiritual associations.</u>
						<p>“Archaeological sites” is not defined. As such, there is a default reliance on the definition provided in the Heritage New Zealand Pouhere Taonga Act (2014: Section 6). This definition is limited by the pre-1900 cut-off date, often leaving significant post-1900 archaeological sites with limited protection, creating a gap in our understanding of Aotearoa’s past.</p>	<p>1. We recommend the inclusion of a definition of ‘archaeological site’ and propose an amended version of the HNZPT Act (2014) definition:</p> <p><u>archaeological site</u> means any place in New Zealand, including any building or structure (or part of a building or structure), that —</p> <p><u>(i) was associated with human activity and</u></p> <p><u>(ii) provides or may provide, through investigation by archaeological methods, evidence relating to the history of New Zealand; and</u></p> <p><u>(iii) includes a site for which a declaration is made under section 43(1) of the Heritage New Zealand Pouhere Taonga Act 2014</u></p>
		Effect -				<p>Support inclusion of cumulative effects as cultural heritage has been subject to this under the current RMA provisions.</p> <p>We note that no definition for ‘trivial’ effect has not been provided.</p>	<p>1. Include definition of ‘trivial effect’</p>
		Environment				<p>This definition does not include cultural heritage nor wider values associated with the environment, such as amenity and aesthetic values. Also, the inclusion of the qualifying statement "as the context requires" is unclear.</p> <p>Further, no definition of built environment is provided, noting that the natural environment has been defined separately.</p>	<p>1. We recommend that the definition of “environment” as per the <i>Environment Act</i> 1986 is adopted:</p> <p><u>environment</u> includes—</p> <p><u>(a) ecosystems and their constituent parts including people and communities; and</u></p> <p><u>(b) all natural and physical resources; and</u></p> <p><u>(c) those physical qualities and characteristics of an area that contribute to people’s appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes; and</u></p> <p><u>(d) the social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) or which are affected by those matters</u></p>

Topic	Sub-topic	Clause	Support	Support in part	Oppose	Reason/s	Recommendation
							2. Include a consequential definition of 'built environment' in cl.7
	Heritage protection authority -					We support the broader definition of a protection authority. We request minor amendment to provide for recommendations from heritage organisation.	1. Expand point b: (b) a local authority acting either on its own initiative or on the recommendation of any iwi authority, group representing hapū, or other Māori entity <u>or heritage organisation</u> with interests in a given place:
	Specified cultural heritage					Support the greater protection of cultural heritage places of national significance including wāhi tapu, wāhi tapu area, or wāhi tūpuna. However, we request that New Zealand Heritage List/Rārangi Kōrero Category 2 places, and places scheduled in NBE plans (current district plans) are also considered in this definition. ICOMOS NZ provide further background to support these recommendations ³ : <ul style="list-style-type: none"> • the current breadth of places covered by these lists is somewhat limited (e.g. only 1 National Historic Landmark - Te Pitowhenua/Waitangi Treaty Grounds) and unrepresentative of places of valued local/regional significance currently scheduled in plans • there is insufficient consideration given to Māori heritage and the values framework that underlies recognition of cultural heritage at an iwi/hapu level. • The current approach to identifying and listing significant cultural heritage by Heritage New Zealand is difficult to reconcile with outcome 5e, particularly the exercise by iwi and hapū of their kawa, tikanga, and mātauranga in determining what is of cultural heritage value to them locally, regionally and nationally. • there is a significant backlog of places nominated for inclusion on the New Zealand Heritage List that are yet to be assessed by Heritage NZ, with this unlikely to be materially addressed in the absence of adequate funding/ resourcing and prioritisation of places currently on the nominations list 	1. amend provision (a) to as follows: (a) meets the criteria for inclusion in— (i) the New Zealand Heritage List/Rārangi Kōrero as a Category 1 <u>or 2</u> historical place, - <u>(X) equivalent places scheduled in NBE plans</u>
						No definition of 'offset' or 'redress'. Given that these terms are used in Clause 14 as an option to address adverse effects, these terms need to be defined to ensure the desired outcome is achieved.	1. Include definitions for both 'offset' and 'redress'

³ ICOMOS NZ NBEB submission – 4 February 2023.

Topic	Sub-topic	Clause	Support	Support in part	Oppose	Reason/s	Recommendation
National Planning Framework (NPF)						We note that Schedule 5 provides the principles for cultural heritage offsetting and redress (comments on this below).	
	Purpose	cl.33				Support recommendations provided by ICOMOS NZ. Further that the definition provided for 'matters of national significance' under clause 555 is included under clause 7.	1. that the definition of 'matters of national significance' under clause 555 is included under clause 7.
	Environmental limits	cl. 37				Amend to broaden the application of environmental limits to more than just the natural environment and to encompass well-being as well as human health.	1. Change wording to: The purpose of setting environmental limits is— (a) to prevent the ecological integrity of the natural environment from degrading from the state it was in at the commencement of this Part: (b) to protect human health <u>and well-being</u> .
	Targets	cls.47-52				Specific provision for setting targets is supported, particularly as these are intended to act as a key mechanism to driving improvement in the state of the natural and built environment, including cultural heritage. Development of targets should be included as part of the national direction in the NPF, with a focus on the conservation of cultural heritage.	
	Scope	cls.56-58				Strongly support the requirement of the NPF to provide direction on system outcomes. Recent reviews of the resource management system (MfE 2022) and currently heritage protection mechanisms (MCH (2021) 'Strengthening heritage protection') show that there is an urgent need for national direction to be provided on the management and protection of cultural heritage. However, timeframes have not been provided for the development of a national direction for 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. This national direction is critical to achieve more effective and consistent identification, management and conservation of cultural heritage. Clarification is requested on the potential mechanisms for conflict resolution to ensure competing priorities and conflicts between and among outcomes are intended to be managed.	1. Confirm that national direction relating to 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 will be included in the first iteration of the NPF 2. Provide further clarity regarding the scope and level of detail relating to the anticipated direction for each of the system outcomes listed in cl.5, 3. Request further clarification on how competing priorities and conflicts between and among outcomes are intended to be managed.
	Content	cl.60					
	Effects management framework	cls.61-67 & Sched. 5					Inclusion of a management framework that sets out how environmental effects on significant biodiversity areas and significant cultural heritage are to be managed, including principles to inform offsetting for adverse effects, is supported.

Topic	Sub-topic	Clause	Support	Support in part	Oppose	Reason/s	Recommendation
						<p>However, we are concerned how the effects management framework principles of offsetting and redress will be translated from an ecological to cultural heritage context. There is limited published literature providing sound analysis and case studies of these principles in a cultural heritage setting, and specifically with regards to archaeological sites, to achieve positive outcomes.</p> <p>Some high-level issues that arise from clauses 61-67 and schedule 5 include:</p> <ul style="list-style-type: none"> • These frame natural/physical resources as a <u>tradable commodity</u> rather than a finite resource. • <u>Offsetting for cultural heritage is not as straight forward as for biodiversity</u> given that cultural heritage cannot regenerate (like the natural environment), there are often multiple and intersecting values associated with a place (esp. cultural landscapes), and in some cases it might be more important to offset the effect of a development by 'trading up' (e.g. directing offsetting to a site that is under-represented or at risk) or indirect offsets or redress (e.g. compensation towards heritage conservation fund, education, interpretation) rather than a like-for-like offsetting of values. • There need to be <u>limits to what can be offset</u>, for example, this needs to exclude highly significant (unique sites, high value to Māori etc.) cultural heritage items. • <u>Expert advice</u> and stakeholder engagement (esp. important for Māori sites) is needed to ensure that the cultural heritage asset has been fully assessed, the appropriateness for offsetting is determined (i.e., all other options explored), and the proposed offsetting measure is appropriate and achieves the desired outcome of no net loss or (preferably) a net gain in values. • <u>Consistency</u> in application of offsetting provisions is needed. • <u>Consistency</u> in how cultural heritage values are assessed across regions. Further, the values of each cultural heritage site or place are unique and irreplaceable. Comparison of these places can be difficult and any assessment of 'like for like' values will need careful consideration. • <u>Monitoring</u> is crucial to ensure outcomes are met. In many cases this needs to be over several years or in perpetuity. This is currently outside the resourcing capabilities of regional/local authorities in NZ. Further timeframes need to be clearly set for the implementation of 	<p>2. We recommend amendments to the below provisions to provide for strengthened protection and conservation of cultural heritage:</p> <p>61.</p> <p>The effects management framework is a means of managing adverse effects as follows:</p> <p>(a) adverse effects must be avoided wherever practicable;</p> <p>(b) any adverse effects that cannot be avoided must be minimised wherever practicable;</p> <p>(c) any adverse effects that cannot be avoided or minimised must be remedied wherever practicable;</p> <p>(d) any remaining adverse effects that cannot be avoided, minimised, or remedied must be offset wherever practicable;</p> <p>(e) if adverse effects remain after applying the requirements, in that order, of paragraphs (a) to (d), the activity cannot proceed unless redress is provided by enhancing the relevant aspect of the environment.</p> <p>63.</p> <p>Clarification needed.</p> <p>(b) uses the term "enhancement". It is assumed that this refers to "redress" (which is a form of enhancement). For consistency, the term "redress" should be used.</p> <p>64.</p> <p>Oppose – Scope of possible exemptions. These clauses create uncertainty and undermines the frameworks, particularly when detail in the NPF has not been provided.</p> <p>65.</p> <p>Oppose 1. (a) These could be large geographical areas. What is an appropriate catchment when determining distance from a place of national importance – i.e. specified (significant) cultural heritage.</p> <p>66.</p>

Topic	Sub-topic	Clause	Support	Support in part	Oppose	Reason/s	Recommendation
NBE Plan Making						any offsetting or redress activities for monitoring of effects and ongoing cumulative effects. We require further clarification of these matters to determine their appropriateness to achieve the system outcomes of the NBE Bill.	Oppose 66. (p) - undermines wider effects management framework with the number of exemptions, and that activities to ensure cultural values endure is provided for in offset and redress framework.
	Effect of NPF	cls.68/69				We support the rationale and recommendations provided in the written submission of ICOMOS NZ.	Support recommendations provided by ICOMOS NZ 1. Provide direction or criteria in the Bill to inform the determination and application of cls.68(3) and 69(2)
	Development & decision making process	Sched.6, cl.2				We support the rationale and recommendations provided in the written submission of ICOMOS NZ.	Support recommendations provided by ICOMOS NZ 1. Amend Sched.6, cl.2(b) by including the following: iii. 'Individuals or organisations that are representative of the sector to which the proposal applies.'
		Sched.6, cls.9/15/ 20					
		Sched.6, cl. 21				We support the rationale and recommendations provided in the written submission of ICOMOS NZ.	Support recommendations provided by ICOMOS NZ 1. Include a new clause after Sched.6, cl.22 as follows: <u>Right of appeal to Environment Court if the Minister rejects Bol recommendation and makes alternative decision 1. This clause applies if—</u> <u>(a) the Minister rejects a Bol recommendation on the NPF proposal; and</u> <u>(b) the Minister makes an alternative decision to that recommended by the Bol;</u> <u>and</u> <u>(c) any person made a submission in respect of the provision or matter recommended by the Bol.</u> <u>2. Once the Minister notifies their decisions on the NPF proposal proposed plan, the person may appeal to the Environment Court in respect of the differences between the alternative decision and the recommendation.</u> <u>3. The appeal is limited to the effect of the differences between the alternative decision and the recommendation.</u>
	Scope	cls.97/ 104/109					
	Content	cls.102/ 107				We support the rationale and recommendations provided in the written submission of ICOMOS NZ.	Support recommendations provided by ICOMOS NZ 1. Include new cl.107(1) as follows: <u>(1) In preparing or changing a plan a regional planning committee must ensure, to the extent relevant, that the plan or change is consistent with -</u>

Topic	Sub-topic	Clause	Support	Support in part	Oppose	Reason/s	Recommendation
							<p><u>(a) a statement of community outcomes prepared by a territorial authority or unitary authority; and</u> <u>(b) a statement of regional environmental outcomes prepared by a regional council</u></p> <p>2. Amend Sched.7, cl.14(3) as follows: ‘In identifying the major regional policy issues, the regional planning committee must have <u>particular</u> regard to—’</p>
	<i>Rules</i>	cl. 130				We support the rationale and recommendations provided in the written submission of ICOMOS NZ.	1. Retain as proposed
	<i>Consultation</i>	Sched. 7, cls. 22/31				We support the rationale and recommendations provided in the written submission of ICOMOS NZ.	<p>Support recommendations provided by ICOMOS NZ</p> <p>1. Amend cl.22(1) by inserting after (c) the following: <u>(d) ‘The Minister for Culture and Heritage; and</u> <u>(e) the relevant regional office of Heritage New Zealand Pouhere Taonga; and’</u></p> <p>2. Amend cl.31(1) by inserting after (b) the following: (c) ‘The Minister for Culture and Heritage and each appropriate regional office of <u>Heritage New Zealand Pouhere Taonga; and’</u></p>
	<i>Contaminated Land</i>	cl. 416-427				<p>Proposed change to require all HAIL sites to be investigated and any which are causing any environmental impact as well as human health effects will need to be remediated (until now the requirement has really only been on those that may have health effects). This potentially has implications for the many industrial archaeological sites around the country.</p> <p>More recently, there has been greater partnership between heritage and HAIL specialists, due to overlapping matters and assessment methodologies. While we don’t propose amendments to these clauses there needs to be greater awareness and partnership between the contaminated land and cultural heritage sectors to ensure positive environmental and cultural heritage outcomes and compliance with other supporting legislation (i.e., Heritage Pouhere Taonga Act 2014).</p>	1. Retain as proposed
	<i>Places of national importance</i>	cls.555/ 556				<p>Strongly support the inclusion of provisions to identify and protect places of national importance.</p> <p>We support the rationale and recommendations provided in the written submission of ICOMOS NZ.</p>	See comments above regarding amendments under cl. 7 definitions, for effect (to include definition of trivial) and specified cultural heritage (to expand list of qualifying terms/places).
	<i>Closed registers</i>	cl.560					

Topic	Sub-topic	Clause	Support	Support in part	Oppose	Reason/s	Recommendation
Compliance & Enforcement	Heritage protection orders (HPOs)	cls.541-554				<p>Overall, we support the strengthened provisions for Heritage Protection Orders as this has been a key area requiring reform (see also MfE 2022 'Our Future Resource Management System' and MCHs (2021) 'Strengthening heritage protection').</p> <p>ICOMOS NZ provide further proposed amendments to these clauses to further strengthen their intent and implementation. We support these additional amendments.</p>	<p>1. Review and refine cls.543 – 548 to achieve a more effective balance between the short vs long term protective outcomes offered by HPOs, including the addition of specific provisions for interim heritage protection orders to supplement more permanent, longer-term HPOs.</p> <p>2. Amend cl.549 to clarify how existing HPOs are to be treated under the proposed HPO regime</p>
	Development process	Sched.7, cl.41				<p>Notified NBE plans should have immediate legal effect for the items noted in the RMA clause 86B, as this gives items interim protection until the relevant parts of the plan become operative. This prevents the pre-emptive demolition of heritage (and of significant vegetation and of habitats of significant indigenous fauna).</p>	<p>1. Include a new clause that allows for a rule in a proposed plan to have immediate legal effect if the rule protects cultural heritage.</p>
	Specified housing and infrastructure fast-track consenting	cls.318/ 319				<p>Inclusion of fast-track consenting is broadly supported but we have a concern around the acceptance of an application. We note cl.318(2) requires the Minister for Conservation to be jointly involved in determining acceptance or not of an application that relates to an activity within the coastal marine areas. Given that there are close parallels in relation to any applications that would potentially affect 'specified cultural heritage' we consider that this clause be extended further to include joint consideration by the Minister for Culture and Heritage where this is the case.</p> <p>We also note in cl.319 that expert consenting panels are either required to notify an application or invite comment from persons or organisations specified in regulations. As we understand that relevant regulations are yet to be developed in terms of the latter we would strongly suggest that HNZPT is included as a specified organisation where any application affects 'specified cultural heritage.'</p> <p>Further, these provisions need to be closely considered and monitored moving forward to understand how effective they are in providing for the identification, management and conservation of cultural heritage. To date, no reporting has been completed by MfE on how the appropriateness of the COVID-19 Recovery (Fast-track Consenting) Act (2020) in managing historic heritage (cultural heritage).</p>	<p>1. Amend cl.318(2) as follows: 'The Minister must decide whether to accept the application but if the application relates to an activity that - (a) is within a coastal marine area, the decision whether to accept the application must be made jointly with the Minister for Conservation. <u>(b) affects specified cultural heritage, the decision whether to accept the application must be made jointly with the Minister for Culture and Heritage</u></p> <p>2. Amend cl.318(3) as follows: <u>(g) 'include any 'specified cultural heritage' potentially affected by the activity'.</u></p> <p>3. Include provisions to provide for the monitoring of the effectiveness and implementation of the fast-track consenting process in meeting the purpose of the NBEB (and future Act).</p>
	Court orders	cls.718/ 719/723–730/ 732-750/776				<p>We support the strengthened provisions to ensure better compliance and environmental outcomes.</p>	<p>1. Retain as proposed</p>

Topic	Sub-topic	Clause	Support	Support in part	Oppose	Reason/s	Recommendation
	<i>Financial penalties</i>	cls.765 - 766				We support the strengthened provisions to ensure better compliance and environmental outcomes.	1. Retain as proposed