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Submission by Historic Places Wellington Inc on Fast Track Approvals Bill

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Historic Places Wellington (HPW) is an incorporated society which aims to identify and protect heritage places in the Wellington region.

We wish to be heard by the Select Committee considering the Bill.

HPW **Opposes** the Bill (see below), and prefers general RMA reform to be rapidly progressed.

HPW makes the following proposals for **amendments** whereby:

- Only development applications of significant national importance are able to take advantage of the Fast Track Approvals Bill.
- The pre-application assessment stage by Joint Ministers requires all development applicants to have provided a heritage assessment.
- That the pre-application process includes consultation with other relevant government agencies prior to the fast-track application being referred for assessment.
- Development applications are specifically required to identify if any heritage sites, wahi tapu sites or National Landmark sites are involved.
- Provision is made for input from the Ministry for Culture and Heritage, and Heritage New Zealand Pouhere Taonga to be made at this pre-referral application stage.
- Development applications are declined which are not government agency sponsored and which do not constitute development applications of significant national importance. Such projects would require regular RMA consenting.
- The threshold in Clause 17(3)(c) of “increasing the supply of housing” is raised so that only projects “significantly increasing housing” are referred. Otherwise building a single house might qualify as a project of national importance.
- Development applications accepted as being of national significance are then required to be publicly notified in order to identify any other heritage issues for resolution by avoiding or mitigating the effects of inappropriate development of historic heritage sites during the approval process.
- Information is required to be disclosed about important heritage matters from development applicants for fast track consenting and issues are surfaced and appropriately addressed in the fast track approval process.

HPW proposes that the panels have the specific role of determining and addressing any negative effects on historic heritage issues.

In particular we **propose**:

1. Include a requirement to consult the Minister for Culture & Heritage in all decision making;
2. Require an expert panel in preparing a report under clause 25 to include comments from HNZPT and the Ministry for Culture and Heritage;
3. Require under clause 14 that any project submitted must identify any of the following within the project area, regardless of their status under a district plan: a historic place, an historic area, wahi tapu site, wahi tapu area, wahi tipuna, or National Historic Landmark included in the New Zealand Heritage List/Rarangi Korero under the HNZPT Act;
4. Require under clause 14 that any project submitted must identify any compliance or enforcement action taken against the applicant under the HNZPT Act or other relevant non-RMA legislation;
5. Decline all projects that would have a more than minor effect on a National Historic Landmark listed under s.81 of the HNZPT Act, or alternatively require the consent of the Minister for Culture and Heritage for a project on any land containing a National Historic Landmark, for the purposes of clause 19(1)(b);
6. Amend Clause 20 of Schedule 4 to include the following persons to be invited to comment on projects in relation to approvals sought under the RMA: any heritage protection authority approved under s.188 of the RMA in respect of a place within the project area; relevant non-government organisations, including organisations that advocate for historic heritage; and Heritage New Zealand for both listed and referred projects.
7. Support cl 26(1)(e) allowing any person with a greater interest than the general public, including heritage advocacy NGOs, to take judicial review proceedings to safeguard against arbitrary and unreasonable political decision making.
8. Support Schedule 4 clause 14 (assessment of effects).
9. Support Schedule 4 clause 16(d)(i) which requires an assessment of RMA s.6 and s.7 matters.
10. Support Schedule 4 cl 20(3)(l) and (6) requiring comment from HNZPT, and allowing a panel to invite comment from another person respectively.
11. Support Part 2 cl 32(1)(c) - panel to consider RMA s.6 matters.

Explanation

COVID Fast track applications reduced consenting time by at least 12 months. 168 applications were received of various scales, including individual buildings or small developments. There was no enduring rationale as to why such projects should be approved. Rather a murky process judged political support and public push-back. Politically contentious projects were declined, while those judged to have less opposition were referred for fast track consenting.

HPW accepts that the Government and Ministers are better placed to make that determination in a democratic process. However judicial review is a safeguarding of the arbitrary abuse of that power. Such an appeal process should be open for affected parties, including NGOs which represent the public interest.

HPW has experience of participating in the fast-track intensification planning process established by the National Policy Statement on Urban Development 2020 and the Enabling Housing Act 2022. Neither had a good outcome in the Wellington District Plan process in subsequent implementation. Even with a highly credible and expert panel, and good public participation, the decision of Labour and Greens elected representatives on the Wellington City Council was entirely political and without a sound evidence base. For such political parties to oppose the Fast Track Approvals Bill is now hypocritical.

HPW also submitted on the reform Natural and Built Environment Bill (N&BE) in 2021 and 2023, despite being aware it would likely be repealed once the government changed.

Resolving the Issues

Unless there's a mechanism for resolving the tensions between the public and the development community on specific legitimate issues, or between respective property owners, the system will be vulnerable to public opposition and democratic political reversal.

Built heritage and archaeological sites are cultural issues around which public opinion sometimes coalesces. Although it might be inconvenient to property owners or the development community, it's important to have a mechanism which surfaces the heritage issues, discusses them, includes expert opinion and weighs the costs and benefits of various solutions.

Examples

When the Wellington Basin Reserve flyover Project was advanced by NZTA decades ago, it failed to acknowledge there were any heritage issues at stake at all. NZTA would not engage on the matter in its early planning stage. That "head in the sand" approach led to the project's failure and to years of additional costs through congestion in our capital city. The project was a failure because although there was strong public support for a de-congestion project, there was also significant public opposition to that specific NZTA design.

Therein lies the real problem. In an urban context it's the specific design, not the larger idea of the road or tunnel or development, which the public often opposes.

By contrast, Wellington's premier development company (Willis Bond) recently took steps to consider the heritage implications of its tall apartment development at One Tasman, near the Basin Reserve. HPW accordingly welcomed the development and supported its consenting application.

A different sort of problem arose with LGWM, which spent \$160m on establishing an incomplete business case for Wellington light rail. The complexity that led to evaporation of public support lay in its financing and associated housing intensification aspects, not its

consenting per se. To make the numbers work it needed radical housing intensification on its route and the neighbours responded. A pre-application process may have surfaced those issues more efficiently.

By the time a fully formed design is submitted to an approval process however, it's too late. Much has been invested inside a cone of silence. It's a stop/go decision, and while this fast-track bill will prevent any "stop", it will not stop public sentiment which will be expressed through the democratic process. It will also not provide a better designed "go" option unless it can ensure that inappropriate development of heritage sites is avoided or satisfactorily mitigated.

HPW proposes the pre-application process better identify heritage issues and that they be broadly resolved before the project is referred for fast track approval. Building broad public and political consensus, and then approving a well-designed project would ensure a more enduring and efficient approach.