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Dear Andrew

Draft amendments to the Historic Cultural Heritage Act 1995

Thank you for the opportunity to provide comment on the *Historic Cultural Heritage Amendment Bill 2023* (draft Bill) which proposes amendments to the *Historic Cultural Heritage Act 1995*.

A brief description of the main elements of the draft Bill is provided below. These include:

1. Refining some of the definitions, including the definition of 'Place', to allow for the inclusion of a definition for 'Heritage Object' and associated definitions to allow for the proposed new part of the Act that deals with registering, handling approval, orders and revocation of orders and appeals in relation to Heritage Objects;
2. The shortening of timeframes from 60 to 30 days for various submissions and objections to be received regarding permanent entries to the Heritage Register;
3. Increasing the timeframe from 120 to 180 days for the Heritage Council to make a decision after provisionally entering a place on the Heritage Register;
4. Provisions that allow for the removal of duplication within the Heritage Register;
5. Replacing the term 'certificate of exemption' with 'minor works permit';
6. Allowing the Heritage Council to consider the likely impact of a discretionary application, not only on the heritage significance of the place or heritage area, but also on the heritage significance of adjoining registered place or heritage area.
7. Providing the Heritage Council with the opportunity to specify the timeframe for undertaking works in a notice to take action or stop action;
8. Provisions allowing for the issuing of guidelines for Heritage Objects; and
9. Transitional provision.

The State Planning Office understands that the draft Bill does not alter the way the Act and the *Land Use Planning and Approvals Act 1993* currently relate regarding the assessment of development applications, and that part of the draft Bill introducing provisions for 'Heritage Objects' will not create an additional

burden on the planning system or council planners responsible for referring and assessing development applications.

We also suggest caution in reducing the timeframes for receiving submissions and objections while increasing your own administrative timeframes, as proposed in clauses 7, 8 and 9 of the draft Bill, and the message that this sends to the community and the potential harm it might cause in preventing people from engaging in your consultative processes.

Clause 12 of the draft Bill amends section 27(1) of the Act, by including reference to section 25A, as follows:

27(1) Any person who lodged an objection or submission under this Part may appeal to the Appeal Tribunal against a decision of the Heritage Council under section 21, 25 or 25A.

Sections 21 and 25 of the Act refer to objections and submissions made in response to entering or removing places on the Heritage Register.

Proposed section 25A (clause 10 of the draft Bill) allows the Heritage Council to remove duplicate entries from the Heritage Register and allows this removal to occur without the application of section 23, 24 and 25 of the Act. Section 23, 24 and 25 all deal with the making of submissions or objections in relation to removing entries from the Heritage Register.

We recommend that you review clause 12, and how it relates to clause 10, of the draft Bill as our interpretation suggests that the proposed reference to section 25A in section 27(1) is redundant because there can be no objections or submissions under section 25A to activate an appeal in accordance with section 27(1).

Clause 17 (b) of the draft Bill proposes to amend, as shown by underlined text, section 39(2)(a) of the Act as follows:

- (2) *The Heritage Council is to further consider the discretionary permit application and in so doing-*
- (a) *is to have regard to the likely impact of the proposed heritage works on the historic cultural heritage significance of the relevant registered place or heritage area or of another registered place that adjoins the relevant registered place or heritage area; and*

It is recommended that you review the drafting and check the use of 'or' and whether it should be an 'and'. If it is the latter, a more appropriate option for the amendment might be 'and any other registered place that adjoins the relevant registered place or heritage area'.

The same issue occurs at clause 18(b) and 20(f) of the draft Bill.

I trust this information helps and should you require any further information please don't hesitate to contact me.

Yours sincerely



Simon Arnold
A/Director