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

Fast-track Approvals Bill

15 April 2024

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 Fast-track Approvals Bill which has the purpose of facilitating the delivery of infrastructure and development projects with significant regional or national benefits. Of particular interest are the provisions in the Bill that amend the current processes for:

- Resource Consents for historic heritage, under the Resource Management Act 1991.
- Archaeological Authorities, under the Heritage New Zealand Pouhere Taonga Act 2014.
- Historic Reserves, under the Reserves Act 1977.
- World Heritage Sites – including those that are located in our National Parks.

Scope of this submission

In light of this context ICOMOS NZ welcomes the opportunity to submit on the *Fast Track Approvals Bill (FTAB).* ICOMOS NZ is a professional organisation which understands the need for certainty for major infrastructure and development projects, but considers that it is both possible and essential to manage our unique cultural heritage places while providing for a fast-track consenting option.

A recent example is the COVID-19 Recovery (Fast-track Consenting) Act 2020 which provided certainty for ongoing investment in New Zealand while continuing to promote the sustainable management of natural and physical resources. We note that while the COVID-19 Recovery (Fast-track Consenting) Act had a clear problem-definition – to support New Zealand's recovery from the economic and social impacts of COVID-19 – the FTAB has a narrow focus of supporting the delivery of infrastructure and development projects without due regard to the natural and physical environment.

As an overall comment, we consider that the proposed FTAB is a prime example of executive overreach - with Ministers, rather than technical and legal experts or Parliament itself, interpreting and determining its intent. In particular we note that the process outlined in the FTAB extends unfettered power to a small group of development-focused Ministers to select and approve a wide range of development projects – regardless of whether their relative environmental, economic, social and cultural impacts are deemed to be unacceptable when independently assessed by the proposed expert panel. It provides joint Ministers with opportunities to influence the process, including to:

- Recommend projects to be considered for fast-track referral.
- Be involved in expert panel selection.
- Challenge panel recommendations.
- Refer back to the panel any conditions considered to be too onerous.
- Have the final say on whether projects are approved or declined.

We are of the view that these constitutionally questionable ministerial powers will expose the referral and decision-making processes to a significant risk of judicial review, particularly where the recommendations of the expert panel are not adopted by joint Ministers.

Consequently, ICOMOS NZ opposes the FTAB in its current form and strongly encourages the Committee to give due consideration to the specific matters of concern and means of redress detailed in Appendix 1 of this submission. These are centred around the following areas:

- Purpose
- Eligibility/ineligibility criteria
- Ministerial approval
- Expert panel
- Application process for archaeological authorities under Heritage New Zealand Pouhere Taonga Act 2014

Given our specific heritage related remit and interests, the focus our submission is on the implications for the effective ongoing management and protection of cultural heritage in New Zealand.

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

Given the sweeping and far-reaching executive powers that would be available to joint Ministers if the Bill is enacted in its current form, we urge the Committee to devote the time and level of inquiry to the full implications of the FTAB. We understand the need for certainty for infrastructure and development, but consider that this is possible to achieve while also protecting our natural, physical and cultural environments. Failure to do so will result in the irrevocable loss of what we as individuals, communities, and as a nation, value, care for and cherish.

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Appendix 1: Fast-track Approvals Bill – Detailed Analysis

Note:

- Recommended text to be included is <u>underlined</u>, with that to be deleted ~~struck out.~~
- Colour Key used is as follows:

Support
Support in part
Oppose

Topic	**Clause**	**Heading**		**Comments**	**Recommendation**
Part 1 Preliminary provisions	3	Purpose		We note that the purpose statement has the potential to enable a wide range of projects to be fast-tracked. The current wording is strongly weighted towards development, and we are concerned that this will be at the expense of safeguards relating to sustainable management of the natural and physical environment, including cultural heritage. Our view is that the similarly stimulatory COVID-19 Recovery (Fast-track Consenting) Act provided a superior model for fast-track legislation. Particularly with its focus on promoting employment and supporting investment while ensuring that natural and physical resources continued to be sustainably managed. In contrast to the COVID-19 Recovery (Fast-track Consenting) Act , the current FTAB does not promote the weighing up the regional and national benefits against the costs – including environmental effects – and ensuring a net public benefit for infrastructure or development projects. The Ministry for the Environment specifically recommended in its Supplementary Analysis Report on the FTAB that the purpose statement should include reference to sustainable management, not just development. Unfortunately, the requirement for sustainable environmental management has been omitted, and the wording of the FTAB reflects a clear development bias.	1. Amend cl.3 as follows: The purpose of this Act is to provide a fast-track decision-making process that facilitates the delivery of infrastructure and development projects with significant regional or national benefits, <u>while continuing to promote the sustainable management of natural and physical resources.</u>
	4	Interpretation		We note that joint Ministers are generally limited to: • Minister for Infrastructure. • Minister for Transport. • Minister for Regional development. And with the: • Minister of Conservation, for approval for anything otherwise prohibited by the Wildlife Act 1953. • Minister responsible for the Crown Minerals Act 1991. This group comprises a small number of Ministers whose remit is predominantly 'pro-development'. Consequently, we are concerned about the absence of executive oversight to ensure the delivery of robust, balanced decision-making regarding project eligibility and approvals. The Minister for the Environment is responsible for core legislation that would be overridden by the FTAB (i.e. the RMA 1991), and we are <u>**deeply concerned**</u> at their exclusion from the group of joint Ministers. Likewise, we note that no mention is made to include the Minister of Arts, Culture and Heritage as a joint Minister in relation to any approvals involving an	1. Amend the definition of 'joint Ministers' to also include the Minister for the Environment. 2. Include a further reference as follows: 1. In relation to an authority under the HNZPTA 2014, includes the Minister of Arts, Culture and Heritage acting jointly with those other Ministers.

Topic	Clause	Heading		Comments	Recommendation
				archaeological authority under the Heritage New Zealand Pouhere Taonga Act (HNZPTA) 2014.	
	6	Obligation relating to Treaty settlements and recognised customary rights		We note with concern the absence of reference to the principles of Te Tiriti o Waitangi. This represents a significant departure from the approach that has been applied in environmental legislation over the past 30 years. It also represents a major step change from the approach adopted in the COVID-19 Recovery (Fast-track Consenting) Act and the now defunct Natural and Built Environment Act.	1. Amend cl.6 by inserting the following: (a) the principles of Te Tiriti o Waitangi / the Treaty of Waitangi
Part 2 Fast-track approval process for eligible projects	10	Application of this Part to specified approval processes		It is unclear why archaeological authorities under the HNZPTA 2014 are included in this approvals process as there is little evidence to suggest that archaeological authorities delay the implementation of resource consents.	Omit 10(1)(e) and all subsequent reference to archaeological authorities.
Listed and referred projects	11 & Sched 2A & 2B			We note that there are no projects currently listed in Schedules 2A and 2B of the FTAB as introduced. Instead, it is our understanding that the Government proposes to establish a non-statutory Fast Track Advisory Group to consider which projects are appropriate for the fast-track process and recommend these to Cabinet. There little information on the membership of the Advisory Group, and it appears that appointments will be entirely at the discretion of joint Ministers. The joint Minister's appointment process does not appear to include any statutory parameters regarding prospective members' expertise, environmental credentials, or independence – and this is a significant concern. Likewise, the criteria under which projects merit being listed are currently unavailable. Consequently, there is no assurance that environmental considerations will be taken into account for listed projects, and there is no clarity regarding what legislative purpose (if any) that the projects will be considered against – particularly as (unlike referred projects) they would not require an assessment against Subpart 2, clauses 14-25. There is no commitment to allow public input into this aspect of the legislation. This is of particularly concern as the projects eventually included in Schedule 2A will be eligible for automatic referral to the expert panel for consideration. This would result in the most contentious aspects of the legislation being unscrutinised by the public.	1. Defer Select Committee consideration of Schedules 2A and 2B until the proposed content of these schedules has been developed, with this then opened up to submissions as part of a targeted submissions process. 2. For reasons of providing greater clarity and transparency either: (a) Direct that the terms of reference of the proposed Fast Track Advisory Group are made publicly available; and either (b) Expand cl.11 to include the criteria to be applied to determining eligible projects for inclusion in Schedules 2A and 2B and a requirement that the basis for these decisions is clearly recorded and made publicly available; or (c) Direct the proposed Fast Track Advisory Group to prepare and make publicly available the criteria that are intended to be used to inform the selection of projects recommended for 'fast-tracking' and to make publicly available the basis for subsequent recommendations made.
Application process	14	Referral application		Archaeological sites and heritage places are not required to be specifically identified in the referral application. An exception is where Sched 7 clause 4 modifications to the process requires the joint Ministers to consult with the Ministry for Culture and Heritage (MCH) and Heritage New Zealand Pouhere Taonga (HNZPT) on archaeology, but there is no clear process for applicants to identify archaeological sites at the referral stage of the consenting process. In addition to concerns about archaeological authorities, we note that HNZPT is not listed as affected person or organisation. Our view is that HNZPT is clearly an affected organisation for items that are listed as Category 1 & 2 historic places, historic areas, wāhi tupuna, wāhi tapu, and wāhi tapu areas listed in the New Zealand Heritage List Rārangi Kōrero.	Proposal and effects: Amend cl. 14(3) (a)-(f) To require information submitted in the referral application to include a statement as to whether the place is included as a place listed in the New Zealand Heritage List Rārangi Kōrero, or as a heritage item or SASM in a district or regional plan. The information should also establish whether the place includes an archaeological site defined by the HNZPTA 2014, and whether a suitably experienced and qualified archaeologist has ascertained whether an archaeological authority would be required. Amend cl. 14 (3) (h) – (q) So that the "persons affected" includes HNZPT for places listed in the New Zealand Heritage List Rārangi Kōrero.

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	16	Consultation requirements for applicants for approvals		HNZPT is not included as a group with a requirement for "engagement" before lodging a referral application.	Amend cl. 16 (1) (a)-(d) To include HNZPT as a group that must be included in pre-referral engagement – for archaeological authorities and for applications that affect places listed in the New Zealand Heritage List Rārangi Kōrero.
Eligibility criteria for projects	17	Eligibility criteria for projects that may be referred to panel		Although we support the inclusion of mandatory criteria in cl.17(2), our overall view is that the eligibility threshold for referral is far too low and, as such, most projects are likely to satisfy the criteria. We query how the outcome of the joint Minister's decision-making process will be recorded and reported in the absence of any specific requirement in the FTAB – something that we consider is fundamental to the transparency of this process. Recording the decision-making process may also reduce the risk of unnecessary reliance on applications to the High Court for judicial review. We note that cl.17(3) provides a non-exhaustive list of matters that the Joint Minister's *may consider* in arriving at a decision as to whether a project has 'significant national or regional benefits'. We consider that national and regional benefits are not clearly defined, and are concerned at the wide degree of interpretive discretion that can be exercised by ministers in determining project eligibility. Of particular concern is the absence of requirements for joint Ministers to weigh up environmental and societal costs against the possible regional or national benefits. Unlike the COVID-19 Recovery (Fast-track Consenting) Act, there appears to be no explicit requirement in this clause to demonstrate that a project achieves a net public benefit based on range of relevant environmental, economic, and societal considerations. Given that the referral decision will influence the ultimate decision (i.e. if a project passes this gateway test, under the purpose of the FTAB, there is a presumption of approval), our view is that a high degree of scrutiny must be applied at the project referral stage. We are also concerned that under cl.17(5), prohibited activities are eligible to be referred for fast-tracking. In the context of the RMA such activities typically encapsulate environmentally/culturally dangerous activities, particularly in sensitive locations or in relation to places identified as being of national or regional importance (e.g. Category 1 places on the NZ Heritage List Rārangi Kōrero). An example, is that under the operative Auckland Unitary Plan the demolition or destruction of 70% or more a Primary feature of a Category A place is a prohibited activity. If retained in the FTAB this clause could facilitate the destruction of such features – an outcome that severely undermines the inclusive, contestable public process that led to the inclusion of this provision in the plan. Although Ministers can refuse to refer a project, even if it meets eligibility criteria, if it includes a prohibited activity under the RMA (cl.21(2)), refusal is at the Ministers' discretion and is made in the context of the purpose of the FTAB, which is development focused.	1. Insert a further clause as follows: (2A) Following consideration of the criteria in subsection (2) the joint Ministers must prepare a report that outlines the outcome of their considerations and associated reasons and make this publicly available. 2. Either: 1. Amend cl.17(3) to mirror as relevant the criteria contained in s.19 of the repealed COVID-19 Recovery (Fast-track Consenting) Act; or 2. Amend cl.17(3) as follows: In considering under subsection (2)(d) whether the project would have significant regional or national benefits, the joint Ministers must consider whether the project satisfies one or more of the following: or 3. Clearly define the term 'significant regional or national benefit' in cl.4 – Interpretation. 3. Delete cl.17(5) in its entirety and, as a consequential amendment, also delete cl.21(2)(f). Subclause (17)(3) should be rewritten to mirror the COVID-19 Recovery (Fast-track Consenting) Act 2020. In considering, for the purpose of section 18(2), whether a project will help to achieve the purpose of this Act, the Minister may have regard to the following matters, assessed at whatever level of detail the Minister considers appropriate: (a) the project's economic benefits and costs for people or industries affected by COVID-19: (b) the project's effect on the social and cultural well-being of current and future generations: (c) whether the project would be likely to progress faster by using the processes provided by this Act than would otherwise be the case: (d) whether the project may result in a public benefit by, for example,— (i) generating employment: (ii) increasing housing supply: (iii) contributing to well-functioning urban environments: (iv) providing infrastructure in order to improve economic, employment, and environmental outcomes, and increase productivity: (v) improving environmental outcomes for coastal or freshwater quality, air quality, or indigenous biodiversity: (vi) minimising waste: (vii) contributing to New Zealand's efforts to mitigate climate change and transition more quickly to a low-emissions economy (in terms of reducing New Zealand's net emissions of greenhouse gases): (viii) promoting the protection of historic heritage: (ix) strengthening environmental, economic, and social resilience, in terms of managing the risks from natural hazards and the effects of climate change: (e) whether there is potential for the project to have significant adverse environmental effects, including greenhouse gas emissions: (f) any other matter that the Minister considers relevant.

Topic	Clause	Heading		Comments	Recommendation
	18	Ineligible projects		Although provision is made for consideration to be given to excluding activities on 'national reserves' declared under s.13 of the Reserves Act we note that, although laudable, there are currently only 3 such reserves in NZ - Hāpūpū / J M Barker Historic Reserve on the Chatham Islands, Puhi Kai Iti / Cook Landing National Historic Reserve in Gisborne and Young Nick's Head / Te Kurī in Poverty Bay. Given the importance of the cultural heritage values encapsulated within those places classified as historic reserves under the Reserves Act (eg. Old Government Buildings Historic Reserve) provision should be made for their inclusion in cl.18(i).	Amend cl.18(i) as follows: An activity on a national reserve or a historic reserve under the Reserves Act 1977 that requires approval under that Act.
Joint Ministers to decide whether to refer application to panel	19			There is no clarity on when the Minister for Culture and Heritage will be invited to make written comments.	Clarify cl.19 to ensure that the Minister for Culture and Heritage must be invited to provide comments for proposals that may affect places included in the New Zealand Heritage List / Rārangi Kōrero.
	21			As currently drafted, the FTAB provides the joint Ministers with the discretion to allow an application that is deemed to have significant adverse effects on the environment. This is a positive aspect of the FTAB, and remaining concern is only that under clause 14 the application *"need only provide a general level of detail about the different approvals required for the project, sufficient to inform the joint Ministers' decision on the application"* which will make it difficult for the joint Ministers to make an informed decision on the levels of effects.	
	24			As per the comments on clause 17, there are no specific requirements for how the joint Minister's decision-making process will be recorded and reported. Clause 26 and 27 allows for appeals against decisions of joint Ministers based on questions of law, and so the Minister's decision-making process must be transparent and open to judicial review.	
	25	Panel to report and joint Ministers to decide whether to approve project		Five working days is a short time for the ministers to read through a planning application that may include multiple reports, and to review the panel's draft report.	Amend cl.25 to provide the ministers with sufficient time to consider the draft report.
				Joint Ministers have unprecedented and wide-ranging powers including: • Accept and decline applications for referral. • Set process timeframes. • Apply restrictions to an activity (for example duration and location). • Prescribe information required in an application. • Specify who can be invited to make submissions. • Suspend processing of an application. • Refer panel decisions back to the panel to reconsider. • Commission additional advice. • Seek comments from an affected party. • Grant and decline approvals. There is no public consultation, and few rights of appeal, except on points of law to the District Court. Judicial review may not be an accessible remedy for all decisions, particularly in terms of time/cost.	Amend cl.25 to ensure that the final decision is provided by the Panel – as was the case with the COVID-19 Recovery (Fast-track Consenting) Act.

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				The ministerial powers are too extensive and wide-ranging and the usual checks and balances are missing from the process.	
Appeals against decisions of joint Ministers	26	Appeal against decisions only on question of law		We note that ultimate decision-making responsibility regarding project approval rests with the joint Ministers and are deeply concerned that there is no further recourse to challenge the merits of this decision in the event that recommendations of the expert panel are rejected. Although we recognise that appeal rights were constrained, for example, in the COVID-19 Recovery (Fast-track Consenting) Act, we are strongly of the view that in the context of the FTAB this cannot come at the expense of transparency and oversight of executive power, particularly given the FTAB offers the potential for a far more extensive range of projects to utilise the process than other fast track legislation.	1. Include a new clause 26A as follows: **Right of appeal to Environment Court if the joint Ministers reject Expert Panel recommendations and make alternative decisions.** 1. This clause applies if— (a) the joint Ministers reject an Expert Panel recommendation on a referral application; and (b) the joint Ministers make an alternative decision to that recommended by the Expert Panel; and (c) any person made a submission in respect of the matter recommended by the Expert Panel. 2. Once the joint Ministers notify their decisions on the referral application, the person may appeal to the Environment Court in respect of the differences between the alternative decision and the recommendation. 3. The appeal is limited to the effect of the differences between the alternative decision and the recommendation. 2. Make necessary consequential changes to cl.26.
Schedule 3 Expert Panel	1	Function of expert panel		The expert panel can only operate within the parameters imposed by proposed purpose of the FTAB – the objective of which is to enable development at the expense of any environmental bottom lines or safeguards. We also note that the weighting of the assessment of proposals does not give sufficient weight to the requirement for projects to demonstrate that they will generate an overall net benefit to society – something that we have discussed above in our comments relating to cl.17. This is deeply concerning as it largely relegates the panel's role to one of 'rubber stamping' projects that end up being listed or referred, subject to recommendation of mitigating conditions that can be referred back for reconsideration if deemed by joint Ministers to be too onerous.	1. Amend the purpose of the FTAB as outlined in our recommendation on cl.3 above. 2. Amend Schedule 3, cl.1 as follows: (2A) In considering whether a project will help to achieve the purpose of this Act, the panel may have regard to the following matters, assessed at a level of detail it considers appropriate: (a) the project's economic benefits and costs: (b) the project's effect on the social and cultural well-being of current and future generations: (c) whether the project would be likely to progress faster by using the processes provided by this Act than would otherwise be the case: (d) whether the project may result in a public benefit by, for example,— (i) generating employment: (ii) increasing housing supply: (iii) contributing to well-functioning urban environments: (iv) providing infrastructure in order to improve economic, employment, and environmental outcomes, and increase productivity: (v) improving environmental outcomes for coastal or freshwater quality, air quality, or indigenous biodiversity: (vi) minimising waste: (vii) contributing to New Zealand's efforts to mitigate climate change and transition more quickly to a low-emissions economy (in terms of reducing New Zealand's net emissions of greenhouse gases): (viii) promoting the protection of historic heritage: (ix) strengthening environmental, economic, and social resilience, in terms of managing the risks from natural hazards and the effects of climate change: (e) whether there is potential for the project to have significant adverse environmental effects, including greenhouse gas emissions:

Topic	Clause	Heading		Comments	Recommendation
					(f) any other matter that the panel considers relevant.
	3	Membership of panels		It is unclear who the panel members are, and what are their minimum qualifications. For example, there is no requirements for panel members to be independent hearings commissioners. There's no minimum requirement for expertise – for example on the legislation such as the HNZPTA. There's no requirement for specialist knowledge – for example an archaeologist.	
	7			Except for the RMA, the panel is not required to have any particular skill or expertise for the various Acts that the panel will make a recommendation to approve a consent, approval, or permit. This is of particular concern for decisions on archaeological approvals, which is a process that is generally managed by experts in archaeology.	Amend cl.7 to ensure that the skills and experience of the panel reflect the various Acts for which the panel is considering approvals or permits under. For example, if the panel is required to assess an archaeological authority, then the panel should include an archaeologist.
Procedural and administrative matters	10			Although we support provision for the panel to appoint a special advisor and technical advisors to assist with their decision-making process we are deeply concerned that there is no requirement for a hearing or to seek even limited public comment on projects referred to the panel for consideration. This, in turn, removes opportunity for meaningful public engagement, with the process bypassing adequate 'checks and balances' for projects that are likely to have significant environmental, cultural, economic and social implications.	
	13	Information required to assess environmental effects		The application does not need to include "*information in the assessment of environmental effects is subject to the provisions of any policy statement or plan".*	Amend c.13 so that applications are required to include a full environmental assessment as per clauses 6 & 7 of the RMA.
Processing of consent applications and notices of requirement	20	Public and limited notification not permitted		HNZPT are included in groups that must or may be invited to comment on referred projects but are not required to comment on listed projects.	Amend c.20 so that HNZPT are required to comments on both listed and referred projects that include archaeological authorities, or items listed in the New Zealand Heritage List / Rārangi Kōrero. This is particularly important for listed projects as these have not been released for public comment.
Part 2 Assessment of consent applications and notices of requirement by panel	32	Panel considers applications and notices of requirement for listed and referred projects		The panel must consider the purpose of the Act which is: *…to provide a fast-track decision-making process that facilitates the delivery of infrastructure and development projects with significant regional or national benefits.* The regional and national benefits are not particularly well defined within the Act, and there is little or no requirement for a net public benefit. The delivery of infrastructure and development projects overrides the requirements of nine Acts that have been established over the past 60-years to provide some kinds of checks and balance for the way we use resources and manage the natural and physical environment.	As noted above in our comments on clause 3, the purpose of the FTAB should be amended to include the sustainable management of the natural and built environment.
Schedule 7 Application process for archaeological authority under Heritage New Zealand Pouhere Taonga Act 2014	1	Application of this schedule		It is unclear who determines if an archaeological authority is required. This is a problem because it creates a potential policy barrier to 2a) that cannot be resolved. If a project requires an archaeological authority, and the applicant does not apply for one using the schedule 7 process, then they are presumably at risk of prosecution under the HNZPTA 2014 if they damage or destroy an archaeological	Amend cl.1(1)(a) to add a requirement for HNZPT to confirm whether an authority is required under the HNZPTA 2014.

Topic	Clause	Heading		Comments	Recommendation
				site when carrying out the works. A better approach is to confirm whether an authority is required at an early stage of the consent process.	
	4	Modifications to process		In relation to (1)(b)(i) which requires that applications are referred to HNZPT and the Māori Heritage Council – we note that the MHC may not wish to be consulted on sites that are not of Māori origin, as this may place an unreasonable burden on their resources.	Amend (1)(b)(i) refer the application to HNZPT and the Māori Heritage Council <u>in the case that sites of Māori origin</u> <u>are affected</u>
	6	Applications must be made to joint Ministers		The requirement for applications to be made to the joint Ministers potentially creates an additional level of approval beyond the current process. This is because HNZPT will effectively have to 're-approve' in cases where existing authorities have been applied for. Therefore, the approach is not efficient in relation the HNZPTA's current process. Requirements under 2(a) and (b), and (3) are consistent with HNZPTA guidance in approving s45 Archaeologists.	Amend cl.6 so that joint Ministers <u>must</u> accept a nomination where: A nominated person has already been approved for an authority; or, The Nominated Person has been recommended by HNZPT and where they demonstrate sufficient competency in line with (2a) and 2(b).
	8	Processing of applications for archaeological authorities		Essentially, the true knowledge value of an archaeological site is not often revealed until after its destruction recording and analysis. The threshold in clause 8 does not work in practice – because it requires: 1. An identification of the significance of the site that cannot always be achieved due to a lack of visible extent. 2. An understanding of impact that cannot always be achieved for the same reasons. 3. The wording requires <u>all</u> effects, whether positive or negative, to be 'no more than minor'.	Amend cl.8 as follows: (1)(a)(ii) in the case of an application for an archaeological authority described in section 44(b) of the HNZPTA, whether the effects of the proposed activity have been assessed by a competent person and the adverse effects are likely to be no more than minor, assessed in accordance with subclause (5).