

**Before an Independent Commissioner of Wellington City Council**

**Under the** Resource Management Act 1991

**In the matter** of a resource consent application for the Future Accomodation Strategy to develop the western portion of the site at 1 Molesworth Street, Wellington

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**LEGAL SUBMISSIONS ON BEHALF OF THE APPLICANT**

**25 May 2023**

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**Matt Conway / Elizabeth Neilson**  
T: +64-4-499 4599  
matt.conway@simpsongrierson.com  
elizabeth.neilson@simpsongrierson.com  
PO Box 2402 Wellington

## 1. INTRODUCTION

1.1 These submissions are made on behalf of the Applicant, Parliamentary Service on behalf of His Majesty the King, regarding its resource consent application made to the Wellington City Council to construct two new buildings and a paved plaza on the Parliamentary Precinct (**Application**).

1.2 The subject site is Parliament Grounds, being a 4.5592ha irregular shaped site and legally described as Section 1 SO Plan 38114. Details of the Application are set out in the Assessment of Environmental Effects (**AEE**) provided in support of the Application, and are further detailed in the evidence of the Applicant's witness team. However, by way of summary, the proposal involves the following main aspects:

- (a) The construction of new six storey building (**MUS**) on Museum Street behind Parliament House to accommodate Members of Parliament, including relocation of an oak tree within the Precinct and construction of a link bridge to Parliament House.
- (b) The construction of a new three storey building (**BAL**) on the Ballantrae Place frontage for deliveries and services to the Parliamentary Precinct.
- (c) Landscape and paving enhancements to the rear of the Executive Wing and Parliament House to replace vehicle driveways and surface carparking with a pedestrian centred plaza (**LAN**).

1.3 The Application was publicly notified with a total of five submissions lodged; four in opposition, and one neutral. One of the submissions in opposition has since been withdrawn.

1.4 The Council's s 42A report recommends that the Application is granted, subject to conditions set out in Annexure 13 of the report.<sup>1</sup> Those conditions are largely acceptable to the Applicant, subject to some adjustments that are explained in Mr Coop's evidence.

1 Paragraph [262] of the section 42A report.

**1.5** These legal submissions cover:

- (a) the witnesses the Applicant is calling in support of the Application;
- (b) an overview of the proposal;
- (c) an overview of the legal and planning framework;
- (d) consideration of particular effects; and
- (e) the proposed conditions of consent.

## **2. WITNESSES**

**2.1** The following witnesses have pre-circulated evidence on behalf of the Applicant, in support of the Application:

- (a) Mr Mitch Knight (Overview of the Project);
- (b) Mr Dave Wills (Consultation with iwi);
- (c) Mr Michael Davis (Architecture and Design);
- (d) Mr Russell Allen (Construction Management);
- (e) Mr Adam Wild (Historic Heritage);
- (f) Mr Chris McDonald (Urban Design);
- (g) Mr Andrew Carnell (Transport);
- (h) Dr Jeremy Trevathan (Noise);
- (i) Mr Hudson Moody (Viewshaft verification);<sup>2</sup> and
- (j) Mr Peter Coop (Planning).

## **3. THE PROPOSAL**

### *Background to and need for the Proposal*

**3.1** The need for the proposal is set out in sections 2.1 and 2.2 of the AEE, in the statement from the Speaker provided in support of the Application, and in Mr Knight's evidence.

**3.2** The Parliamentary Precinct has unique requirements for its buildings due to it being the heart of New Zealand's political system, housing the debating chamber and offices of the Prime Minister and Cabinet Ministers, and needing to function efficiently and

<sup>2</sup> Mr Moody has been excused from attending the hearing.

effectively in those respects. As the composition and number of political parties change after each election, the spaces must be reconfigured to ensure that parties can be accommodated together (with their staff), with sufficient space separation and security – as well as ensuring a sufficient degree of separation between different political parties.<sup>3</sup> Mr Knight explains that currently it takes around three months after each election for this reconfiguration to occur, and the custom fit-outs every three years places greater stress and fatigue on the infrastructure than an average office building.<sup>4</sup> The current buildings on the Parliamentary Precinct are at capacity, and struggle to accommodate even small adjustments in party and member ratios and numbers.

**3.3** Another unique requirement of the Precinct is its need for both security and accessibility. A 2019 review of security at Parliament identified several residual vulnerabilities which require fundamental change to the movement of goods, traffic flows, parking, and access.<sup>5</sup> Alongside these security requirements, the Precinct also needs to remain accessible to the public, as it acts as a function centre, houses art galleries, hosts select committees open to the public, and is home to many New Zealand tāonga and other historical items.

**3.4** Further, the Precinct needs to be able to continue to operate in times of crisis and disruption, which drives the need for highly resilient buildings. The Precinct therefore needs a fit-for-purpose resilient set of Parliamentary buildings, within the boundaries of Crown owned land.

**3.5** Mr Knight’s evidence outlines the existing shortfalls in accommodation at the Parliamentary Precinct that the Application seeks to address. In summary, there is currently not enough space on the Parliamentary Precinct to accommodate all members of Parliament and their staff; and an already constrained site was recently

3 See paragraph [6.12] of Mr Knight’s statement of evidence, dated 15 May 2023.

4 See [6.13] - [6.14] of Mr Knight’s evidence.

5 See [6.25] of Mr Knight’s evidence.

further reduced due to seismic assessments.<sup>6</sup> Mr Knight describes the Precinct as being on the “brink of a capacity crisis”. In particular:

- (a) There is an inadequacy (and now unavailability) of rented space:
  - (i) The short-fall in capacity required for ministers, members and staff has previously been covered by leased spaces in Bowen House. The leasing has caused various issues over the years.<sup>7</sup>
  - (ii) The lease of Bowen House is now over. Members have been moved to a reconfigured space within the Parliamentary library and Parliament House, and staff were moved to leased offices in the on Lambton Quay in the TSB building.<sup>8</sup>
- (b) There have been further reductions in available space within the Precinct due to seismic issues, such that the New Zealand Parliament is now in the position where it cannot properly house its members:<sup>9</sup>
  - (i) Seismic assessments have resulted in 16% of the member accommodation space being lost and forced 20 members to be moved into ex-storage space in the Parliamentary Library attic.
  - (ii) Seismic issues have also caused the loss of the use of the Executive Wing Annex, and car parking building.

**3.6** It is not tenable for these issues to continue, hence the current proposal has been advanced. The construction of MUS would provide significant additional capacity within the Precinct and help to overcome the capacity issues on the Precinct.

**3.7** Another important aspect of the proposal is to transform part of the Precinct from a surface-level car park into an attractive pedestrian and landscaped plaza. Details are set out in Mr Davis’s evidence.<sup>10</sup> In summary, LAN will change what is currently a vehicle dominated area into a connected and legible series of outdoor spaces.

6 See [5.5] - [5.10] of Mr Knight’s evidence.

7 See [5.3] of Mr Knight’s evidence.

8 See [5.4] of Mr Knight’s evidence.

9 See [5.5] - [5.10] of Mr Knight’s evidence.

10 See in particular [6.4] and [7.12] - [7.15] of Mr Davis’ evidence.

**3.8** As set out in Mr Knight's evidence, the proposal also provides the unique opportunity to use the narrative local iwi have gifted the project to create a piece of New Zealand's Parliament that properly represents mana whenua's role in New Zealand's legislative body.<sup>11</sup> The co-design process is set out in the evidence of Mr Wills and Mr Davis.<sup>12</sup>

#### **4. OVERVIEW OF THE LEGAL AND PLANNING FRAMEWORK**

**4.1** Sections 104 and 104B of the RMA will apply to the Commissioner's consideration of the application. As the requirements of those provisions will be well known to the Commissioner and are traversed in the AEE, the section 42A report, and the evidence of Mr Coop, we do not propose to replicate them here.

**4.2** The relevant matters under section 104(1) include any actual and potential effects on the environment of allowing the activity (including positive effects), and any relevant provisions of policy and planning documents.

**4.3** Section 3.2 and Appendix 7 of the AEE set out Mr Coop's assessment of the Operative District Plan (**ODP**) rules under which consent is sought for the proposal. This is also addressed in section 6 of Mr Coop's evidence. A Restricted Discretionary consent is also sought under the NES-CS for soil disturbance.

**4.4** As detailed in the AEE, the bundled activity status for the Application is Discretionary. Section 4 of the AEE therefore considers the effects of the proposal in terms of section 104 on an unrestricted basis.

**4.5** An assessment confirming that the proposal is consistent with the relevant objectives and policies in the ODP and the Wellington City Council Proposed District Plan (**PDP**) is set out in Appendix 18 of the AEE. The section 42A report finds that the proposal is generally consistent with the objectives and policies from the ODP,<sup>13</sup> and that while the proposal does not directly accord with all the relevant PDP objectives and policies, the proposal is in the round generally consistent with the outcomes sought by the PDP.<sup>14</sup>

<sup>11</sup> See [6.24] of Mr Knight's statement of evidence.

<sup>12</sup> See section 8 of Mr Davis' statement.

<sup>13</sup> At [205].

<sup>14</sup> At [231].

### *Status and impact of the PDP*

**4.6** The Application was initially lodged on 13 May 2022, and modified in October 2022 to remove the part of the Application that sought consent for adaptation of the Press Gallery. The PDP was notified on 18 July 2022, and hearings for the first stream of chapters commenced in February 2023. Given the relatively early stage of the PDP process, less weight can be placed on the relevant PDP objectives and policies.<sup>15</sup> However, very little turns on this, in light of the general consistency of the proposal with both the ODP and the PDP.

**4.7** The Application was lodged prior to the notification of the PDP, so the activity status is preserved by section 88A. Three restricted discretionary activity PDP rules have immediate legal effect and are applicable, namely HH-R3 (in relation to Parliament House to install the link bridge), HH-R13 (in relation to BAL, MUS, LAN), and EW-R8 (in relation to earthworks within a heritage area). Consent is sought under all relevant ODP and PDP rules.

## **5. CONSIDERATION OF PARTICULAR EFFECTS**

**5.1** It appears from the section 42A report that the officers and the Applicant's witnesses are in agreement that the effects of the proposal will be acceptable, that the significant positive effects will outweigh the adverse effects,<sup>16</sup> and that the proposed consent conditions are an appropriate means of managing effects.

**5.2** In terms of matters raised by submitters as to the effects of the proposal, the areas of outstanding concern appear to be in relation to visual and amenity effects, and construction and noise effects.

**5.3** Noting that Heritage New Zealand Pouhere Tāonga's (**HNZPT**) submission on the application is neutral, we comment briefly below on the historic heritage effects of the application in light of the historic heritage significance of the site.

<sup>15</sup> *Keystone Watch Group v Auckland City Council, ENC Auckland A007/01, 11 January 2001* at [45] and [46].

<sup>16</sup> Section 42A report at [140].

### *Construction and noise effects*

**5.4** Concerns about construction effects have been raised in the submissions from Mr Blinkhorne (on behalf of Kāpura, the company that owns and operates Huxley's Bar and Eatery) and Mr Robertson (a resident of Ballantrae Place).

**5.5** These effects have been responded to in the Applicant's evidence as follows:

(a) Mr Allen's evidence explains in detail the construction management controls and mitigations that will be in place to manage construction effects. Parliamentary Service is committed to collaborating with neighbours over the course of the construction delivery and will hold regular consultation and updates on progress. Construction mechanisms are being prepared to allow for adaptation of working requirements as works progress.<sup>17</sup>

(b) Mr Carnell's evidence addresses the transport impacts of the proposal, and notes "*...it is my opinion that the proposed development would not have a significant detrimental impact on the properties on Ballantrae Place, for the reasons set out in section 6 of my evidence.*" Mr Carnell concludes "*I therefore believe that there are no outstanding traffic or transport reasons why the proposed development should not be approved.*"<sup>18</sup>

(c) Dr Trevathan's evidence addresses the noise effects of the proposal, and concludes that the temporary negative effects of construction can be adequately mitigated through the drafting and implementation of a Construction Noise & Vibration Management Plan.<sup>19</sup>

**5.6** All three witnesses support the conditions of consent proposed by the Council, with some amendments. It is therefore submitted the effects of the proposal on neighbours can be adequately managed through the proposed conditions of consent.

<sup>17</sup> See paragraph [6.4] of Mr Allen's statement of evidence.

<sup>18</sup> See [8.2] of Mr Carnell's statement of evidence.

<sup>19</sup> See [10.1] of Dr Trevathan's statement of evidence.



## *Visual and amenity*

**5.7** Mr Blinkhorne's submission also raised concerns that the height and position of the MUS building will affect sunlight and visual amenity on an outdoor terrace at Huxley's.

**5.8** Mr Coop and Mr McDonald have addressed this in their evidence. As highlighted by Mr Coop, the ODP does not contain any objectives, policies, or rules that require sunlight access to be maintained in the Bowen State Campus.<sup>20</sup> Mr McDonald assesses the effect that MUS will have sun access at Bowen State Campus, and concludes that although MUS will have an effect on sunlight at the Bowen State Campus, that is likely to be the case with any foreseeable development of the currently undeveloped Western Carpark on the Parliamentary Precinct, on which the ODP envisages buildings up to 27m high.<sup>21</sup>

**5.9** Mr McDonald's evidence also assesses the change in visual outlook from Bowen State Terrace, and concludes:

7.15 In summary, FAS will change the visual context of Bowen State Terrace from an expansive open space to a smaller courtyard, which is framed on three sides by buildings. Although reduced in extent, the terrace's new setting will be generously proportioned, softened by vegetation and well connected with its surroundings. As a result, the West Courtyard will create a positive visual relationship between Bowen Campus and the Parliamentary Precinct. The visual amenity will exceed what is normally achieved along the common boundaries of adjacent central-city sites...

**5.10** It is therefore respectfully submitted that while the proposal will have an effect on the sunlight and visual amenity from Huxley's, these effects are appropriately mitigated by the proposal and the residual effects are reasonable and to be expected in the central area.

**5.11** In terms of the impact on viewshafts, section 6 of Mr Coop's evidence addresses the applicability of viewshaft standard 13.6.3.3. As set out there, the Application included drawing PA A6-04 that shows MUS in relation to viewshaft 4A of the ODP. Mr Moody's evidence confirms the accuracy of the building location within the viewshaft, which aligns with drawing PA A6-04. The section 42A report considers the effects on this

20 See [10.5] of Mr Coop's statement of evidence.

21 See [7.6] of Mr McDonald's statement of evidence.

viewshaft (see paragraph 74 and 75), and concludes that “*the adverse effects on the values of the viewshaft will be acceptable*”. Mr McDonald’s evidence also considers the effect on viewshafts and comes to a similar conclusion.<sup>22</sup> The Eldin Family Trust, the submitter who raised this issue, has withdrawn its submission.

### *Historic Heritage*

**5.12** The significance of the Government Centre Historic Area has been recognised through its entry on the New Zealand Heritage List/Rārangi Kōrero (List No. 7035). The Government Centre Historic Area also includes a number of individually listed Category 1 historic places, including Parliament House and the Executive Wing.

**5.13** HNZPT filed a submission on the Application, which states “the combination of conditions devised to mitigate adverse effects and the laudable parts of the proposal mean that HNZPT remains neutral overall on the resource consent application for the proposal. HNZPT also filed a statement of evidence (dated 22 May 2023), which states that having reviewing the section 42A report, and the proposed conditions of consent, “HNZPT agrees with the conclusions of Mr Brajkovich and Mr Kelly with regards to effects on heritage value”, and agrees that “the proposal is acceptable from a heritage perspective”.

**5.14** For the AEE, the heritage effects were assessed by two heritage experts for the Applicant, Mr Wild and Mr Bowman. Mr Wild’s report recognised that while there are some adverse effects arising from the proposed works on the historic heritage fabric of Parliament House and the historic Museum Street Oak tree, there are positive effects associated with the project overall. Mr Bowman’s assessment came to a similar conclusion.<sup>23</sup>

**5.15** Mr Wild has also prepared a statement of evidence, confirming his agreement with the section 42A report’s conclusion that the proposal will not result in unacceptable adverse effect on the historic heritage values of the Parliamentary Precinct overall. Mr Wild concludes that “*On balance, the proposed adaptive reuse of Parliament House and development of the new Museum Street and Ballantrae Place buildings, and the*

<sup>22</sup> Refer to [6.2] and [8.1] of Mr McDonald’s statement of evidence.

<sup>23</sup> Mr Bowman concluded that the magnitude of impact on the Executive Wing and Parliamentary Library as negligible, and on Parliamentary House and the Grounds as minor. Mr Bowman concluded that the significance of impact on the Executive Wing and Parliamentary Library as having a less than minor impact, on Parliamentary House and the Grounds as a minor impact.

*enhancement of the associated landscaping of the western precinct are appropriate and supportable.”<sup>24</sup>*

**5.16** Therefore, there is agreement amongst the experts that while there are some adverse historic heritage effects caused by the proposal, the proposed conditions of consent adequately mitigate those effects.

#### *Positive Effects*

**5.17** The positive effects of the proposal are set out in section 7 of Mr Coop’s evidence, and are also highlighted in Mr Knight’s evidence. In summary, the key positive effects are:

- (a) It will enhance the vitality, vibrancy, efficiency and effectiveness of Parliament and its Precinct by consolidating and centralising Parliamentary functions on the Precinct and close to Parliament House.
- (b) It will provide robust and self-sufficient accommodation for the National Crisis Management Centre and critical Government operations in the aftermath of a significant natural disaster affecting Wellington.
- (c) It will provide centralized and enhanced security and management of deliveries and services to Parliament.
- (d) It will integrate and transform the rear part of the Precinct with a pedestrian centred plaza and landscaping.
- (e) It will provide opportunities to change the physical appearance of the Precinct to better reflect tangata whenua and the Treaty of Waitangi.

**5.18** Mr Wills and Mr Davis also highlight the positive effects of the proposal in terms of the opportunity that it has presented to enable a co-design process with mana whenua to support the integration of the expression of the cultural and site-specific narrative. This is a key positive outcome of the proposal, as it is a step forward in ensuring that mana whenua are able to express their cultural narrative in the buildings and the Precinct’s landscape.

<sup>24</sup> See [5.9] of Mr Wild's statement of evidence.

**5.19** Mr Carnell’s evidence sets out the positive effects of the proposal from a transport perspective. In summary, the proposal will improve safety and the environment for pedestrians and cyclists in the vicinity of the Bowen Street/Museum Street/the Terrace intersection, reduce the number of on-site parking for staff, and enable a switch to other modes of transport. Mr Carnell concludes *“In my opinion the reconfiguration of the site, with the primary access point becoming Ballantrae Place instead of Museum Street, will result in an overall improvement to safety and amenity compared to the existing access point from Museum Street.”*<sup>25</sup>

**5.20** The AEE concludes that “cumulatively, the [above] positive effects will be significant and ongoing”.<sup>26</sup>

## **6. CONDITIONS**

**6.1** Appendix 13 to the section 42A report included proposed conditions that could be imposed on the consent should it be granted.

**6.2** The Applicant’s witnesses have reviewed those conditions, and largely agree with them – the Applicant proposes some minor refinements to them, as set out in the marked-up conditions attached to Mr Coop’s evidence as Appendix 1.

## **7. CONCLUSION**

**7.1** For the reasons set out in the original application, the evidence of the Applicant, and these submissions, we submit that consent should be granted, subject to the conditions attached as Appendix 1 to Mr Coop’s evidence.

**DATED** at Wellington this 25<sup>th</sup> day of May 2023

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Matt Conway / Libby Neilson  
Counsel for Parliamentary Service, on behalf of His  
Majesty the King (the Applicant)

<sup>25</sup> See [5.2] of Mr Carnell's statement of evidence.

<sup>26</sup> Refer to page 12 of the AEE, dated 28 September 2022.