National War Memorial Park (Pukeahu) Empowering Bill 2012 (2012 No 53-2)

Date of Introduction: 23 August 2012
Portfolio: Arts, Culture and Heritage
Select Committee: Transport and Industrial Relations
Date report presented: 18 September 2012

Purpose

The aim of this Bill is to grant statutory authorisations and property rights to the Ministry for Culture and Heritage and the New Zealand Transport Agency (the Agency) to enable completion of the National War Memorial Park (Pukeahu) (the Park) by April 2015, the centenary of the commencement of the Gallipoli landings of the First World War. The legislation is needed because it is not possible to guarantee that the necessary statutory authorisations would be obtained within a time frame that would enable the Park to be completed by April 20151.

Background

The Bill grants resource consents, heritage authorisations, and building consents and provides the designation, powers of entry onto land, and property rights necessary to carry out the project. In addition, to secure the rights and authorisations needed to complete the Park by April 2015, the Bill

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removes the standard objection and appeal rights available under legislation, namely, the Resource Management Act 1991, the Historic Places Act 1993, and the Public Works Act 1981. However, rights to compensation under the Public Works Act 1981 are preserved².

There is regulatory impact statement at:

http://www.treasury.govt.nz/publications/informationreleases/ris

Resource consents

The Bill as introduced grants resource consents to the Agency and the chief executive of the Ministry for Culture and Heritage (the Ministry) on the conditions set out in Schedules 1 and 2. The consents have the same effect as if they were granted under the Resource Management Act 1991. Certain provisions of that Act are disapplied, including appeal rights (see: Part 2, Subpart 1, Clause 7; Schedules 1 and 2).

Designations

The Bill provides for a designation for the Agency in respect of all the reconstruction and alterations required for the roading network (see: Part 2, Subpart 1, Clause 8; Schedules 3 and 10).

Archaeological authorities

The Bill grants authorities to the Agency in relation to the archaeological sites specified in Schedule 4, and to the chief executive of the Ministry in relation to the archaeological sites specified in Schedule 5 as if the authorities had been granted under Section 14 of the Historic Places Act 1993 to destroy, damage, or modify an archaeological site. The National War Memorial Park area is near or includes the sites or former sites of historic structures and institutions including the Mt Cook Police Barracks, the Home of Compassion Crèche (which is to be moved under the Bill (see: Schedule 3, Part 2, pp. 70-72, Conditions NZTA 08-10)), and the former site of St Patrick’s College, Wellington. The Bill provides that certain specified provisions of the Historic Places Act 1993 do not apply, including provisions relating to appeals against the granting of the authorities (see: Part 2, Subpart 2, Clause 9; Schedules 4 and 5).

Consents and access

The Bill also provides for the necessary building consents and associated conditions to the Agency and the chief executive of the Ministry, for access to property and granting of property rights and a certification process for the statutory authorisations granted to the Agency or the Ministry pursuant to the Bill (see: Part 2, Subparts 3-5).

Orders in Council

The Bill provides that the Governor-General may from time to time, by Order in Council (which will expire on 31 July 2015) made on the recommendation of the Minister of Transport or the Minister for Arts, Culture and Heritage, do any of the following that may be reasonably necessary or desirable for the purposes specified in Clause 3:

- grant any statutory authorisation, or any other permission or right under listed enactments;

² Ibid, pp. 1 and 2.
• take or grant any licence, land, or easement;
• amend certain statutory authorisations, or any other permission or right.

All draft Orders in Council must be reviewed by the National War Memorial Park Review Panel (Part 2, Subpart 6, Clauses 26-35).

Main changes

Purpose
The bar-2 Bill restates the purpose of the Bill, without changing its meaning, as being to:

• empower the creation of the National War Memorial Park (Pukeahu) on the Park land that includes the National War Memorial, in the area of the City of Wellington known to Māori as Puke-ahu; and
• ensure its completion by April 2015, the centenary of the commencement of the Gallipoli Campaign of the First World War; and
• ensure the integration of the Park and roading networks with the wider City of Wellington (Part 1, substituting Clause 3 (1)).

Resource consents and designations
The bar-2 Bill specifies that resource consents which would be granted by the Bill would not lapse on 31 July 2015 if, before that date, they had been given effect or “substantial” work relevant to the consent had been commenced, or an extension of the lapsing period had been granted. The bar-2 Bill also specifies that when considering an application to extend the period until a consent lapses, the consent authority would have to take into account whether substantial progress was being made towards giving effect to the consent and whether approval had been obtained from persons who might be adversely affected (Part 2, Subpart 1, amending Clause 7).

Orders in Council
The bar-2 Bill provides that for a Minister to recommend the making of an Order in Council, he or she must have considered all other reasonably practicable ways relevant to the particular circumstances to achieve the purpose of the legislation. The Review Panel is required to report to the Minister every six months on the use of the power to make Orders in Council under the Bill, and to require the Minister to present a copy of each report to the House of Representatives. The bar-2 Bill also provides that an Order in Council does not come into force until twelve sitting days after the day on which it was presented to the House (Part 2, Subpart 6, amending Clause 24 by inserting new subclause (4); inserting New Clause 27A; substituting Clause 31, and deleting Clause 32).

Comment
The Select Committee suggested that the amendment requiring the Minister to present a copy of each six-monthly report to the House of Representatives would allow the House to consider implementing a process, perhaps adopted by sessional order, for specific consideration of these reports.\(^3\)

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\(^3\) National War Memorial Park (Pukeahu) Empowering Bill, 2012 No 53-2, As reported from the transport and Industrial Relations Committee, Commentary, p. 4.