

New Fast Track Approvals Bill introduced today

Cabinet has approved the introduction of the new Fast-Track Approvals Bill, which had its first reading in the House under urgency today.

The Fast Track Approvals Bill was introduced into the House today and will shortly go to the Select Committee for public submission. Here is what we know:

- The purpose of the Bill will be to facilitate projects with significant regional or national benefits.
- It will be a one-stop-shop for certain authorisations under the RMA, Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012, Wildlife Act 1953, Freshwater Fisheries Regulations 1983, Conservation Act 1987, Reserves Act 1977, Crown Minerals Act 1991 (for access), Heritage New Zealand Pouhere Taonga Act 2014, Public Works Act 1981, Fisheries Act 1996.
- Projects will either be listed in the Bill or referred to an expert panel by Ministers.
- Ministers will make decisions on projects, after recommendations by an expert panel.

How can a project access the fast-track?

A wide range of projects will be eligible for fast-tracking, including infrastructure, renewable energy, housing and mining projects.

Projects will be able to access the fast track either by being included in the Bill, or by applying to Ministers. No projects are included in the Bill at this stage – it is anticipated that they will be added through the Committee of the Whole House phase.

In his First Reading Speech, Minister Bishop said that the Bill will include a list of projects to be referred immediately to a panel (Schedule 2A), as well as a list of projects that are "shovel-worthy, but not ready for consents right now" (Schedule 2B). The rationale for this approach is to create a pipeline of projects that have consent and are ready to go whenever they become economically viable.

The Government is designing a process, to be announced in a few weeks, for people to nominate projects for inclusion in the Bill or to be referred by Ministers. Nominated projects will be assessed by an independent advisory group, comprised of experts on infrastructure, economic development, environment, conservation and local government, which will make recommendations to Ministers.

Some projects are ineligible for fast tracking, including activities on Treaty settlement land or in customary marine and protected customary rights areas without written approval, activities relating to the occupation of space in the common marine and coastal area prohibited under the RMA and some activities in the open ocean or in conservation areas (such as national parks, nature and scientific reserves, wilderness areas, wildlife sanctuaries, marine reserves, RAMSAR sites and national reserves).

How will the process work?

Fast-tracked projects will be considered by an expert panel in the first instance. The panel will seek comments from certain groups such as Ministers, Māori groups, local government, requiring authorities and landowners. The panel will consider the application, develop conditions, seek feedback from the applicant and submitters on conditions and provide recommendations to Ministers. The panel may recommend that a project be declined if environmental effects cannot be appropriately managed. Recommendations will need to be made within 6 months.

New Fast Track Approvals Bill introduced (Continued)

The Ministers for Infrastructure, Regional Development and Transport (and, in some cases, the Minister of Conservation) will determine whether to grant or decline the approvals. Ministers will be able to send the project back to the panel if the conditions are too onerous.

There is no requirement for a hearing or to seek comment from the public. Applicants who wish their project to be referred to a panel will be required to engage with relevant local authorities and Māori groups, provide a record of that engagement and information on how that engagement has informed the project.

What matters will be considered by Ministers and the expert panel?

Key matters for consideration provided for in the Bill include:

- Ministers may be able to consider how a project will contribute to climate mitigation, adaptation and resilience to natural hazards at the referral stage.
- In making decisions on a project, the purpose of the Bill (to facilitate projects with significant regional or national benefits) will take precedence over considerations in other legislation.
- Subject to that, expert panels will be informed by the resource management legislative and planning framework in managing environmental effects through conditions.
- Requirements to exercise functions in a manner consistent with Treaty settlements and other arrangements.

Can decisions be appealed?

Appeals against Ministers' decisions will be limited to points of law to the High Court by limited parties, including persons who have an interest greater than the general public. Judicial Review also remains available.

Appeal rights to the Environment Court in relation to compulsory land acquisition will not be affected.

Summary

The new Fast Track Approvals Bill picks up on key aspects of the Covid-19 Recovery (Fast Track Consenting) Act 2020 and the fast-track process saved as part of the repeal of the Natural and Built Environments Act 2023.

Key differences include:

- The facilitation of projects with significant national or regional benefits will be the primary focus of the legislation, and the new legislation will take precedence over other legislation and planning instruments.
- A wide range of authorisations will be able to be obtained through the fast-track process, not just authorisations under the RMA.
- Ministers will make decisions on whether projects will receive authorisations, rather than an expert panel.

The Bill will be sent to the Environment Committee for public submissions.

Want to know more?

If you have any questions about the Fast Track Approvals Bill, or would like help to make a submission, please contact our specialists Maree Baker-Galloway or Jen Vella.