

## Environment Committee says changes needed to Fast-track Approvals Bill

### The Environment Committee has released its report on the Fast-track Approvals Bill. It has recommended by majority that it be passed with key changes

The Fast-track Approvals Bill (the **Bill**) [was introduced earlier this year](#), creating a one-stop-shop designed to accelerate the delivery of infrastructure and development projects that will bring significant regional and national benefits. More recently, [the Government announced](#) the 149 projects that will have automatic rights to access the fast-track process once the Bill is passed.

After receiving almost 27,000 submissions, the Environment Committee (**Committee**) has now issued its recommendations, recommending key changes to the Bill. The Government [had already decided on many of these changes](#) and recommended them to the Committee.

As expected, Labour and Green party MPs oppose several aspects of the Bill, including reduced public participation and the focus on infrastructure and development delivery over environmental considerations.

We take a brief look at the Committee's recommendations in this article. More changes are likely to be made by the Government (including inserting the list of selected projects) and we expect the Bill to swiftly proceed through the remaining parliamentary process and into law.

### Key recommendations

#### Clarify the purpose

The Committee recommends the purpose of the Bill be clarified to focus on the delivery of infrastructure and development projects, rather than on providing a faster consenting process. The purpose of the Bill is important

– particularly as it is ascribed significant weight in deciding whether to grant a fast-tracked application.

#### Expert panels, not Ministers, to make final decision

One of the most controversial aspects of the introduced version was that three Ministers (Infrastructure, Transport and Regional Development) were to make decisions on applications.

The Government has already backtracked on that proposal, announcing several weeks ago that ultimate decision-making would lie with expert panels. This reflected the position of a large number of submitters, and the Select Committee agreed - saying this would give greater confidence that the decision-making will be independent, objective and well informed.

#### Applications can be declined

The Committee recommends that an expert panel be able to decline a project if it will have an 'adverse impact' that is 'sufficiently significant' to outweigh the purpose of the Bill, even after taking into account conditions that may be set by the panel. An 'adverse impact' is any matter considered by the panel that weighs against granting approval.

'Adverse impact' is a new term and 'sufficiently significant' a new test – we can expect them to ultimately be tested in the Courts.

#### Tweaks to referral process

If a project is not on the fast-track list, it may be eligible for referral. Recommended amendments to eligibility provisions include:

- Projects must have significant regional or national benefits, and referral must facilitate that project (including by enabling a faster and more cost-efficient process) and not materially affect the efficient operation of the fast-track process.
- Projects that support existing regionally or nationally significant infrastructure to continue

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functioning may be eligible, eg maintenance or upgrading of infrastructure.

- Electricity generation and transmission may be eligible even on high value conservation land, maintain and enhance New Zealand's electricity generation and transmission capacity.
- Linear infrastructure projects may be eligible on some Māori land.
- Projects on local authority land, or reserve land owned or managed by someone other than the Crown or DoC are only eligible with written consent.

Recommended changes to determination of referrals include:

- Decisions to be made solely by the Minister of Infrastructure in consultation with the Minister for the Environment and other relevant portfolio Ministers - rather than a joint decision by the Ministers for Infrastructure, Transport and Regional Development.
- Any prior consideration of projects (eg Court decisions) to be considered as part of a referral decision.

### Other recommendations

The Committee's other recommendations include:

- Improved drafting to clarify processes and relevant considerations for the one-stop-shop process.
- Expert panels will collectively possess knowledge, skills and expertise relevant to the proposal, environmental matters, and Māori development.
- Lapse period to be 5 years by default (instead of 2 years), or as specified by the panel (which must be no less than 2 years) - this is consistent with the RMA.

- Variations to fast-track approvals to be determined under standard processes, not the fast-track.

### How fast is fast?

Timeframes for referral remain uncertain. The EPA has to determine whether a referral application is complete and invite and receive written comments before the Minister can determine whether to refer a project to the fast-track. There are a number of steps in the process with no timeframes and it is unclear how quickly applicants for referral will know whether their referral application has been accepted.

By contrast, timeframes for receiving decisions on substantive applications are strict. Once a panel is appointed, it has 10 days to invite written submissions, it is proposed parties have 20 days (extended from 10 days) to respond, and the panel has 25 days from receiving written submissions to issue a decision – including holding a hearing if necessary, requesting and processing any further information, providing parties an opportunity to comment on draft conditions and undertaking consultation with Ministers for Māori-Crown Relations and Māori Development.

This sets a very fast pace and panels will be stretched – although the panel convenor can extend this timeframe if the nature and scale of the application requires it.

### Want to know more?

If you would like further information about the Fast Track Approvals Bill please contact our specialist Resource Management [team](#).