



Moving up a gear, or struggling with the clutch? How the Fast-Track RMA process may work.

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Fast-tracking the RMA process for economic recovery projects inevitably amplifies tensions between economic and environmental aspirations. Can that tension be resolved satisfactorily? And can it achieve the desired lift in speed?

The government this week issued a cabinet paper setting out its proposed process.

The Minister for the Environment will decide whether a project merits fast tracking. Their decision will be made on the basis of prospective economic benefits to communities or industries affected by COVID-19; the social and cultural wellbeing of current and future generations; the likelihood of the project progressing significantly faster under fast track; and the degree of public benefit.

Considerations may also include potential for: jobs; housing supply; infrastructure improvement; climate change mitigation; acceleration of New Zealand's transition to a low emissions economy; and strengthening of our environmental, economic and social resilience.

There will be no public notification, but an approved project will be referred to a Expert Consenting Panel which will be required to invite comment from various parties including relevant local authorities, iwi authorities, groups with relevant customary rights or title, the owners and occupiers of any land on which the project is to be undertaken, or of any adjacent land, certain Ministers organisations or persons, to be identified in the legislation - for example environmental NGOs and infrastructure industry groups.

Noteworthy points:

- There will be up to six "large" NZTA projects, which are already in the National Land Transport Programme which will be consented through the legislation, along similar lines to the Kaikoura earthquake recovery programme.
- It would appear that NZTA and KiwiRail will be able to self-consent or have permitted activities. This is still being considered.
- Large projects could have initial stages approved, with later stages approved either under the legislation or the RMA.
- Reduced information requirements will apply, meaning the Assessment of Environment Effects will not need to be as comprehensive.

- It's not clear whether infrastructure operators affected by the projects would have the right to submit or comment. For example would this cover a transmission line or state highway which might be affected by a proposed housing development? To be successful projects should be integrated as well as quick.
 - The cabinet paper does not address fast-tracking of the Public Works Act process, however landowners would have a right to submit, and the 'self-consented' projects would need to be on land already owned by the infrastructure operator.
 - People with appeal rights include the local authority, the requiring authority, and a person who has an interest greater than the public generally. But it might be asked what good this appeal right might do them if appeals are restricted to points of law.
 - There is no obligation to hold a hearing, and the Panel must issue its decision within 25 days (or 50 days if extended) upon receipt of comments. But the overall process may not be quick. Applicants will still need to prepare applications, convince the Ministry for the Environment (and the Minister) to accept a project, and before the 25 day meter is switched on there still needs to be an Order In Council, Panel terms of reference and appointment, and a decision on parties invited to comment. In the past, an Order in Council from the Minister for the Environment has taken 6 months or more.
- Overall, this appears to be an effective mechanism for speeding up the process, if not as swift as the phrase "fast-track" might suggest. Whether it makes a difference or not - to jobs, to our communities, to the environment - will come down to the projects the Minister chooses.

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