

FAST-TRACK CONSENTING AND FRESHWATER MANAGEMENT – Ngā iwi o Taranaki

AGENDA AND NOTES

9 February 2024

2.30pm - 4pm

Online meeting

Attendees

Name	Role	Organisation
Dion Tuuta	Chief Executive	Te Kotahitanga o Te Atiawa Trust
Maria Hokopaura		Te Kotahitanga o Te Atiawa Trust
Graham Young	Environmental Manager	Te Rūnanga o Ngāti Ruanui Trust
Renee Bradley	Chief Executive	Te Kaahui o Rauru
Jude Cornelius		Te Kaahui o Rauru
Ngawai Terry	Pou Taiao	Te Kaahui o Taranaki Trust
Sean Zieltjes		Te Kaahui o Taranaki Trust
Mitchell Ritai	Chief Executive	Ngāti Mutunga
Ben White	Engagement Lead	Ministry for the Environment
Isabella Wilson	Senior Analyst	Ministry for the Environment
Shawnee Westerman	Senior Analyst	Ministry for the Environment
Peter Nelson	Principal Analyst	Ministry for the Environment
Naedene Stewart	Business Support Coordinator	Ministry for the Environment
Kerena Wano	Kaiwhakatere	Ministry for the Environment

Items

1	Karakia
2	Mihimihi
3	Fast-Track Consenting
4	Out of scope
5	Discussion



Meeting notes

Discussion notes	D1	<p>General</p> <ul style="list-style-type: none">NBA and SPA were repealed in December.Government intends to introduce a permanent fast-track consenting (FTC) regime as part of its 100-day plan with legislation to be introduced on 7 March. There will be an opportunity to provide feedback on the bill by making a submission to the select committee.Government intends to review and replace the National Policy Statement for Freshwater Management (NPS-FM).Government intends to repeal and replace the Resource Management Act (RMA).Government committed to upholding Treaty Settlements. <p>Discussion</p> <ul style="list-style-type: none">Dion Tuuta asked if the full extent of available information is in the Ministerial letter. Graham Young asked if any other information was being provided today. If not, he viewed the hui as a duplication of the high-level update that was already outlined in the letter from Minister Bishop. Shawnee Westerman responded that in terms of FTC a discussion could be had about the detailed policy decisions that MfE are looking at. MfE happy to discuss these issues and options being explored.Graham Young emphasised that he would not be giving feedback by 12 February as requested in the Minister's letter given the lack of details provided by MfE. He also noted that the hui was on the afternoon of 9 February which is not enough time. Mitchell Ritai supported this and added that he considers today's hui as information sharing and not consultation and that it is impossible for Ngāti Mutunga to respond between now (Friday 9 February) and Monday.Graham happy to participate in discussions and asked how today's feedback would be articulated and passed on to Ministers. Ben White responded that officials were working on advice to Ministers over the weekend and it would include feedback received from PSGEs and iwi.Issues to be covered included whether the legislation would include a Treaty clause, what would it mean to uphold or protect Treaty settlements in this regime, what does a statutory



		<p>acknowledgement mean in an FTC regime, and what provisions of the RMA that should apply to the FTC regime? Ministry is keen to hear the views of Taranaki iwi.</p> <ul style="list-style-type: none">• Graham reiterated that the advice Ben provides should acknowledge that the feedback provided is in no way fulsome because of the timeframes and lack of details provided by MfE.• Discussion had about who received letters from Minister Chris Bishop as a lot of attendees received the letters via other networks instead of from MfE. Ben to follow up regarding PSGE contact details when Ministerial letters are sent out.
	D2	<p>Fast-Track Consenting (FTC) – Shawnee Westerman</p> <ul style="list-style-type: none">• Permanent FTC regime will be a stand-alone piece of legislation drawing on previous FTC regimes (COVID-19 and NBA).• Intention is to include approvals under other legislation – e.g. Conservation Act, Wildlife Act, Heritage Act, Exclusive Economic Zone Act (EEZ) – so as to be a ‘one stop shop’.• Projects will need to be of regional or national significance. Eligibility criteria are still being worked through but are likely to include large infrastructure, housing, aquaculture and resource extraction pro.• Two pathways in FTC regime:<ul style="list-style-type: none">– Listed projects: Projects that have gone through appropriate due diligence and consultation. They are listed in the Bill and will be referred to the expert panel upon the Bill’s enactment.– Ministerial referral: Any individual or group makes an application to the responsible Minister to request fast-track consent for a project.• Once a project is referred to an expert panel decision will be made about appropriateness of projects and necessary conditions will be decided. There will be limited ability for expert panel to decline applications. <p>Discussion</p> <ul style="list-style-type: none">• Dion asked if an assessment of the previous FTC regime was done to see if it was actually faster as he is aware of one FTC application in Taranaki that resulted in litigation and probably slowed down the resource consenting process.



- Graham asked how much of the previous regime is being retained as iwi had a lot of input in that process. He was particularly interested in what would happen to the iwi engagement touch points of the COVID-19 FTC regime.
- Graham asked if RMA principles would apply where FTC intersects with legislation that isn't already linked to the RMA – e.g. EEZ and Continental Shelf Act. What advice has the Minister sought? Have they asked for specific advice about the EEZ legislation and the ability to extend FTC into EEZ.
- Dion asked how developed the eligibility criteria are or are they based on the criteria of previous regimes? He also asked if there was a list of potential listed projects. Shawnee responded that the criteria would be based on COVID-19 regime and work was still being undertaken by a range of government agencies to get a list of shovel ready projects that could be a listed project. MfE are still developing a process for how those projects will be assessed before they are included in the Bill.
- Mitchell Ritai asked if the expert panel is the only opportunity for iwi to provide views about the project application? Are there other opportunities for iwi input in the FTC process? Shawnee responded that in the COVID-19 regime there is a requirement for Minister to engage with relevant local authorities, PSGEs and iwi authorities. Result of those engagements would inform the referral decision.
- Discussions being had about a range of Treaty protection provisions that could be written into the legislation. Ben invited any views about what would be acceptable to Ngā Iwi o Taranaki to the operation of the legislation.
- Maria Hokopaura: Asked who makes a decision when a project spans more than one Act? And gave an example of a housing project with a heritage building onsite. Shawnee outlined that a joint decision would be made by Ministers.
- Policy work continues about what requirements are needed at the referral stage i.e. how is the referral decision made, what other criteria are needed, what tests need to be met at the referral stage. This is important given the limited ability to decline a project once it is referred to the expert panel.
- COVID-19 FTC regime has provision of one iwi Authority on the expert panel. Role of expert panel is to apply necessary conditions to a project.
- Sean Zieltjes asked if the rules, process and framework for condition making in the RMA are being retained for the expert panel. The ability of imposing conditions and the scope of those are set by a local planning instrument. This creates issues when there are activities that are



		<p>not anticipated in a local planning instrument. This results in a lot of time discussing discretionary activities. A review of local planning instruments needs to be done too.</p> <ul style="list-style-type: none">• Sean asked if there is a specific piece of work that needs to be produced that confirms the economic benefits touted in an application will be realised (or not) by the community? Is there a point in the FTC process where these claimed community benefits are being discussed/reviewed or tested? Shawnee suggested an expansion of the section 17 analysis in the COVID-19 regime could include local impacts/benefits.• Maria asked if an applicant's compliance history was considered when a project is being referred to an expert panel.• Ben advised a draft version of the Bill could be made available to individuals ahead of its introduction but that would require signing a confidentiality agreement.• Dion summarised his views before leaving the hui:<ul style="list-style-type: none">– The timeframe and lack of details provided were not good enough.– He is not necessarily opposed to FTC legislation but thinks it all comes down to the details of the project and whether it cuts across Te Atiawa's interests.– Te Atiawa want to see NZ develop appropriately. Appropriately does not necessarily mean fast. The legislation needs to be appropriate.– He questioned whether it was even necessary to have a permanent FTC regime given we no longer need to urgently promote the economic recovery of NZ because of a pandemic.– He is interested in the listed projects that will be written into the legislation, wants to understand the criteria for projects in greater detail and wants to understand how Te Atiawa can use this legislation for their own projects.
	D3	Out of scope



Out of scope