

FAST TRACK CONSENTING - Te Ohu Kaimoana

AGENDA AND NOTES

Friday 9th February 2024

9am

Online meeting

Attendees

Name	Role	Organisation
Laws Lawson	Principle Advisor	TOKM
Kylie Grigg	Aquaculture programme lead	TOKM
Samuel Mikaere	CE	Ngāti Maniapoto
Tanya Stevens	Senior Policy Advisor	Te Rūnanga o Ngāi Tahu
Hemi and Margaret	--	Maara Moana – Te Taihū
Rawiri Faulkner	Pou Toa Matarau	Te Runanga o Toa Rangatira
Peter Rice	Director	Te Arawa Fisheries
Amelia Dalley	--	--
Sue Mavor	Senior Policy Advisor	Te Rūnanga o Ngāi Tahu
Peter Vitascovich	Chief Executive	Whakatōhea Mussels Ōpōtiki Ltd
Justine	Legal Representative	
Bridget Giesen	Director	MPI
Ben Moginie	Manager	MPI
Stan Sarkie	Analyst	MPI
Daran Ponter	Engagement Lead	Ministry for the Environment
Kate Mitchell	Principle Legal Advisor	Ministry for the Environment
Emily Allan	Senior Analyst – Fast Track Consenting	Ministry for the Environment
Julian Jackson	Senior Advisor- Treaty Settlements and RM	Ministry for the Environment
Jerren Tweedie	Analyst- Treaty Settlements and RM	Ministry for the Environment

Items

1	Overview on FTC
2	Discussion



Meeting notes

	<p>D1 Opening</p> <p>MfE opened by explaining that the Government has committed to delivering permanent fast-track legislation within the 100 day plan, noting that the legislation is scheduled to be introduced on the 7 March.</p> <p>MfE also explained that officials are working at pace to a truncated process to deliver this commitment and as a result the opportunities to input into the development are limited, noting that there will be a select committee process that will allow for further discussion and input once the bill has been introduced.</p>
	<p>D2 Fast track legislation</p> <p>MfE provided some context to the background of the legislation, noting that the architecture of the bill is largely building on the previous Covid 19 Recovery (Fast-track consenting) Act 2020 but there are still a number of policy issues to work through.</p> <p>TOKM asked whether MfE could share some more information on what the policy issues are that are still being worked through. MfE provided some information on the policy that is still under development, for example information requirements for applicants and composition of the expert panel.</p> <p>Peter Vitasovich raised that certainty is important and policy development needs to take this into account in regards to the impact on Māori rights in the FTC regime.</p> <p>A number of representatives raised concerns about the timeframes and that protections for Treaty settlements have not been made yet. MfE noted that the provisions and mechanisms to protect Treaty settlement commitments are being worked through as the policy for the process of the consenting process is refined, and they welcome any feedback and input as no decisions have been made.</p> <p>Concerns were also raised regarding the engagement process for this bill, noting that the engagement was not meaningful and it did not support a good Māori-Crown relationship. Groups also explained that no policy and information to provide feedback on creates uncertainty in already truncated processes and inhibits their ability to engage properly and that select committee will likely be the only viable option to provide feedback.</p> <p>Ngāti Toa (Rawiri Faulkner) representative explained that because FTC will enable infrastructure and development that will have intergenerational impacts the legislation needs to help support us to do better and make better decisions, and that in the current state it isn't doing that. Ngāti Toa representatives also raised a question around who makes the decision on whether the project is impacting a settlement or not and that this will be important to consider in the design of the bill.</p> <p>Ngāti Maniapoto representative (CE Samuel Mikaere) raised a specific question regarding their statutory acknowledgement out to 17 nautical miles, and how the FTC regime applies to their area. MfE explained that Ministers have not yet made decisions on whether this bill will</p>



cover the marine and coastal area out to the Exclusive Economic Zone or the Marine and Coastal Area (12 nautical miles), but that this is still a live question.

MfE provided some additional information on the 'one-stop-shop' and that the FTC bill is likely to include approvals that are outside of RMA approvals including the Wildlife Act, Conservation Act.

MfE also noted that it will be important to consider Settlement protections at the referral stage of the process as the substantive decision will likely sit at the Ministerial level and the panel will only be able to impose conditions on consents, and there will be a high threshold for the panel to decline applications.

TOKM raised a query about the composition of the panel and whether it would include representatives from relevant Treaty settlement entities. MfE noted that this is still being worked through, but that this was an approach taken in previous FTC regimes.

Ngāi Tahu representative (Tanya Stevens) asked whether the FTC regime would enable aquaculture infrastructure? MPI explained that the current approach will allow for them to use the FTC pathway to process aquaculture consents in their settlement areas, and that protections for aquaculture settlement areas are being included in the regime.

A point was raised on the lack of resourcing for the EPA who currently undertakes the secretariate function, noting that this should be considered alongside the backlog of applications in the current regime.

Maara Moana representatives explained that they would be supportive of development and therefore the FTC process if it protects Treaty rights and the environment, creates a less bureaucratic process and has clear benefits for iwi and Māori.

Groups raised whether there had been a commitment to broader Treaty rights rather than just settlements? MfE stated that Ministers had only committed to upholding Treaty settlements and there is a live question as to whether Treaty rights will be upheld.

Ngāti Maniapoto representative (CE Samule Mikaere) asked if there would be any additional opportunities to have input on the draft bill prior to introduction. MfE noted that they are seeking approval from the Attorney General to share the draft bill with PSGEs but that there would be very minimal time to receive feedback to incorporate before it is introduced. However, MfE agreed to request a waiver for TOKM to review the bill prior to introduction as that approval had not been sought. Representatives agreed that for transparency they would still like to receive the bill prior to introduction.

MPI provided some more detailed information on how the aquaculture settlement will interact with the FTC regime, noting that currently the FTC process will provide an RMA consent at the end to ensure that it triggers obligations under the aquaculture settlement.

Peter Rice also noted that the duration of consents needs to be considered for aquaculture-given the costs associated with FTC and the need to ensure it's viable financially.

MPI also noted that they are considering how other process requirements such as a UAE test can be included in the one-stop-shop approvals or considering whether a parallel process



		<p>where it can be considered alongside a consent application would be appropriate to ensure the consents aren't held up.</p> <p>Representative Rawiri from Ngāti Toa also raised that if the panel will only be able to impose requirements, it will be difficult to get good commissioners as there is limited scope to influence the outcome, also noting that remuneration will be a barrier for applicants. Rawiri also explained that existing plans will influence this legislation and process and will need to be considered.</p>
Actions	A1	MfE to apply to the Attorney General for a waiver to provide the draft bill to TOKM.
	A2	MfE to provide notes for circulation.