Supplementary Analysis Report: Fast-track Approvals Bill

Coversheet

Purpose of Document	
Decision sought:	*Analysis produced to support the introduction of the Fast-track approvals bill*
Advising agencies:	*Ministry for the Environment*
Proposing Ministers:	*Minister Responsible for RMA Reform*
Date finalised:	*Thursday 29 February 2024*

Problem Definition

The processes for seeking approvals for major projects in New Zealand are slow, costly and complex. The approval processes place insufficient value on the positive economic and social benefits of development.

The result is excess cost and a stifling of development. The Infrastructure Commission/Te Waihanga estimates that current consenting processes cost infrastructure projects $1.29 billion every year, and the time taken to get a resource consent for key projects has nearly doubled within a recent five-year period.

The Government has made the decision to take a phased approach to reform of the resource management system:

a. Phase one: repeal the Natural and Built Environment Act (NBA) and Spatial Planning Act (SPA) (now complete).

b. Phase two: introduce a fast-track consenting regime within the first 100 days; make targeted legislative changes to the Resource Management Act 1991 (RMA) by late 2024; develop new, or amend existing, national direction under the RMA; and the Going for Housing Growth work package.

c. Phase three: replace the current RMA with new resource management legislation based on the enjoyment of property rights, while ensuring good environmental outcomes.

The focus of this Supplementary Analysis Report (SAR) concerns phase two, the introduction of a fast-track consenting regime ("fast-track regime") for significant infrastructure and development projects.

The problem definition is wider than resource consenting under the RMA alone. Developers may also need approvals under the Conservation Act 1987, Wildlife Act 1953, Reserves Act 1977, Freshwater Fisheries Regulations 1983, Heritage Pouhere Taonga Act 2014, Exclusive Economic Zone Act 2012, Crown Minerals Act 1991 and the Public Works Act 1981. When all these pieces of legislation are taken collectively, there is a barrier to progressing major development projects due to the inconsistent information requirements, variable timeframes and different decision-making processes which apply under these different statutes.

Allowing the status quo to persist risks not being able to sufficiently provide for the increased housing and infrastructure development necessary to support our growing population, as well as support New Zealand to meet its climate targets and transition away from fossil fuels.

Executive Summary

Cabinet has agreed to introduce a fast-track regime

On 23 January 2024, Cabinet agreed to progress a one-stop-shop fast-track consenting regime [refer CAB-24-MIN-0008]. This decision reflects the coalition agreement commitment made between the National Party and the New Zealand First Party, which requires a Fast-Track consenting Bill to be introduced in the Government's first 100 days in office. Cabinet delegated further policy decisions to a select group of Ministers.

… for cheaper and quicker approvals outcomes

In line with the aims of the Government's overall response to the Sapere report commissioned by Infrastructure Commission/Te Waihanga, the broad objectives of the fast-track regime are to ensure more rapid and less costly consenting processes for major projects, ensure simpler and less burdensome application processes, across several regulatory systems, to provide an increase in favourable decisions for major projects that have regionally or nationally significant benefits, and to uphold all existing treaty settlements and other legislative arrangements. This is expected to benefit both major project developers and wider communities by reducing the infrastructure deficit, and contributing to more affordable quality housing.

The fast-track regime aims to improve the approvals process for major projects and to reduce inefficiency costs and risks.

There are two broad problems which the fast-track regime aims to address, both arising from the complexity of the existing approvals processes:

1. The time and costs associated with the existing processes are delaying approvals being granted creating a barrier for major projects to proceed.

2. The approval processes place insufficient value on the positive economic and social benefits of development.

These two issues give rise to a number of additional related problems, as described in detail in this Supplementary Analysis Report.

Agencies recommend that a standalone fast-track regime is needed to respond to these challenges.

While the analysis shows a clear preference for a standalone fast-track bill for Resource Management Act and other legislative approvals, some of the policy design choices present a risk to system coherence.

However, we still anticipate overall benefits to our communities from enabling major projects to progress quicker.

Limitations and Constraints on Analysis

Our focus is on the details of the fast-track system

On 23 January 2024, Cabinet agreed to progress a one-stop-shop fast-track consenting regime [refer CAB-24-MIN-0008]. This decision reflects the coalition agreement

commitment made between the National Party and the New Zealand First Party, which requires a Fast-Track consenting Bill to be introduced in the Government's first 100 days in office. Cabinet delegated further policy decisions to a select group of Ministers.

In this SAR, we are only focused on the detailed requirements to be included in the new fast-track consenting regime agreed by Cabinet that this Bill seeks to deliver.

The proposals for the fast-track regime have been developed at the same time as other RMA amendments

The policy proposals that shape the fast-track regime are limited to the scope of this change agreed by Cabinet, which does not consider other wider aspects of the resource management system. This minimises the interaction between the change that a fast-track regime would bring and also the significant number of other resource management policy proposals which are being developed concurrently or in quick succession (RMA changes to Te Mana o te Wai, National Policy Statement for Freshwater Management, National Policy Statement for Highly Productive Land etc). Officials are unable to undertake a system-wide analysis that incorporates all the linkages for all the proposed amendments, how they work together and what the cumulative impacts of all these amendments will be. For example, the changes to the way that decisions are made through implementing a fast-track regime is compounded by the changes made to the NPS-FM on the removal of the hierarchy of Te Mana o te Wai for consent decisions.

As the wider resource management system evolves to reflect all these amendments, subsequent decisions will need to consider the impacts on the policy decisions that have been made previously. **As the fast-track regime is one of the first policy changes to be made, this will impact on the upcoming amendments proposed.**

The new fast-track regime will interact with existing Resource Management and other approval processes. The design of the fast-track seeks to manage these interactions. For example, a fast-track Bill may establish a hierarchy between the different considerations that decision-makers under the new Bill will apply (such as giving precedence to the purpose of the fast-track Bill), and the new Act will coordinate the granting of approvals under a range of regulatory regimes through the one-stop-shop.

Because the fast-track was designed ahead of the wider resource management reform programme, there is a risk that this further reform will mean that aspects of the fast-track no longer interact smoothly with the wider approvals system. This may necessitate later amendments to the fast-track Bill.

Some of the costs and benefits involved are difficult to quantify

Some of the options discussed in this SAR will impose costs and/or benefits on a range of actors including the Crown, local government, iwi/Māori, the development community, the general public, or future generations. While we can anticipate where these costs and benefits will fall, their monetary value is difficult to quantify in the time we have available to complete this analysis.

Evidence of the specific problems identified have been informed by the Sapere report commissioned by Infrastructure Commission/Te Waihanga

Most of the problems identified in this SAR have been informed by the Sapere report commissioned by Infrastructure Commission/Te Waihanga on the cost of consenting

infrastructure projects in New Zealand. This study was comprehensive and included an international benchmarking assessment across Australia, EU/UK, and North America (including Canada). This provides a good evidence base for the analysis set out in this SAR, however, the report was limited to the development of infrastructure projects and only focused on RMA matters, and not wider legislation. It did not cover the full range of projects (housing, mining, aquaculture etc) that this fast-track regime is anticipated to support.

There has been limited analysis on the inclusion of non-RMA legislation

Due to time constraints, there has been very limited analysis on the problem definition associated with conservation, heritage and public works legislation. No analysis has been provided by the Department of Conservation for the SAR on the conservation approvals contained in the fast-track regime.

While there appears to be general consensus among infrastructure providers and developers that multiple approvals processes can be costly and time-consuming, the challenges/barriers posed specifically by conservation and heritage approvals are not well understood. There may be negative impacts on conservation land and wildlife outcomes which have not been quantified.

There has been limited analysis on the proposed changes to non-RMA legislation designed to enable more development, including the impacts of enabling greater development on public conservation land. This creates significant risks for achieving the Government's wider objectives. For instance, there will be impacts on the conservation values of public conservation land. The potential benefits to development and the impacts upon conservation are not well understood. Many issues in the public works legislation involve balancing competing interests between delivering public infrastructure and private property rights, which need further exploration.

There has been limited analysis on the problem definition associated with the public works legislation. Any issues in the public works legislation involves balancing competing interests between delivering public infrastructure and private property rights which requires careful consideration.

The changes proposed to the Fisheries Act were a late addition to the fast-track bill and have not been considered further in the SAR due to the time available for analysis.

Limited data and evidence available to assess policy proposals

Cabinet direction [refer CAB-24-MIN-0008] narrowed the scope of proposals to only policy options that achieve the direction for a one-stop shop. The one-stop shop allows for RMA approvals to be obtained as well as other relevant permits through the same process. We have limited our SAR to only those options.

Ideally, we would have undertaken an analysis looking at the wider scope of options, impacts and spill-over effects of the policy. Additional estimates would have been sourced on how many consents we are expecting this to apply to and determining with more clarity what the efficiency gain would be. The number of applications received under the previous Covid 19 fast-track legislation and the NBA fast-track provisions have been used as guidance on the eligibility settings and the corresponding consent numbers.

Consultation and analysis challenges

Our consultation and analysis have been done in a compressed timeframe. This short timeframe has resulted in processes that would ordinarily occur consecutively to occur concurrently. For example, ordinarily a complete set of policy decisions would be made prior to drafting being initiated.

Note that no consultation has occurred on policy proposals for including non-RMA legislation.

Agencies have worked constructively to prioritise collaboration on the fast-track policy proposals, but the limited timeframe has resulted in reduced consultation timeframes from best practice for delegated decision briefings and for Cabinet papers. The reduction in consultation timeframes has been mitigated by collaboration at officials' level for this work programme, but remains a limitation.

The Minister Responsible for RMA Reform initiated engagement with local government, iwi groups including Post Settlement Governance Entities (PSGEs) and sector stakeholders through a letter sent on 31 January 2024. The letters included an offer of engagement for feedback to inform the development of the fast-track regime by 12 February 2024. The relatively tight timeframe together with the complexity of the policy proposals for the fast-track regime means that some interested parties have not had sufficient time to make comprehensive submissions. To manage this, we proactively reached out to PSGEs and priority stakeholders including key sector representative groups, local government, iwi and pan-iwi groups.

Materials and collateral to support engagement were limited as policy decisions were developed concurrently with the stakeholder engagement period due to the time constraints. Additionally, the testing of policy proposals relied heavily on the experiences under previous fast-track regimes as detailed policy proposals largely were not available for testing during the engagement period. Feedback from our engagement has emphasised that the tight timeframes and lack of opportunity to garner views on specific policy proposals (as they were being concurrently developed) has impacted the ability to provide comment. The analysis therefore is unable to be as detailed or thorough in relation to the consulted criterion for SAR as would usually be expected for a Bill of this significance.

Cabinet agreed to include protections for Treaty settlements and other legislative arrangements in the fast-track bill. Time constraints on the development of the fast-track regime has limited the level of engagement possible with PSGEs and other relevant groups on how best to uphold their arrangements in the fast-track regime.

Knowing all that, this impact analysis is done with the following assumptions:

- The number of applications received will be similar, although slightly higher than previous fast-track regimes, as the previous fast-track regimes developed were narrower in scope.
- The cost and time implications identified in the Sapere report commissioned by Infrastructure Commission/Te Waihanga will continue at the same rate as previously monitored. This does not take into account the likelihood of increased severe weather events due to climate change and the impact this might have on the anticipated future cost and time of consenting infrastructure and development projects.

Responsible Manager(s)

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01/03/24

Quality Assurance	
Reviewing Agency:	Ministry for the Environment
Panel Assessment & Comment:	The requirement for quality assurance of regulatory impact statements (RIS) has been suspended for decisions relating to 100 Day Plan proposals taken within the 100 Days. However, the Ministry for the Environment notes that the SAR has been internally peer reviewed and considers that it is fit-for-purpose to inform Cabinet's consideration, given the time constraints.

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

1. Major project developers in New Zealand are required to obtain a suite of official approvals (such as permits and consents) before they can commit to delivering their projects.
2. Establishing the fast-track regime forms part of the National Party's coalition agreement with the New Zealand First, and the Coalition Government's plan for its first 100 days in office.
3. In pursuing this policy, the Coalition Government has committed to upholding redress in Treaty of Waitangi settlements. There are now over 75 individual Treaty settlements, as well as the Marine and Coastal Area (Takutai Moana) Act 2011 and the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019, that interface with the RMA, including consenting.

Resource Management Act

4. The requirements in the Resource Management Act 1991 (RMA) have a significant impact on the development community. The RMA is New Zealand's main law governing how people interact with natural resources. As well as managing air, soil, freshwater and the coastal marine area, the RMA regulates land use and the provision of infrastructure, which are integral components of our resource management (RM) system. People can use natural resources if doing so is permitted under the RMA or allowed by a resource consent.
5. The RMA is widely recognised as having failed in its effectiveness (by allowing continued environmental deterioration) and in its efficiency (through a slow, costly and complex consenting process), leading to inefficient barriers to development as well as poor environmental outcomes.
6. The failings of the RMA are one driver of New Zealand's large and growing infrastructure deficit, and our lack of sufficient, affordable quality housing. The RMA is a poor foundation for mitigating and adapting to climate change. These problems are likely to grow without intervention.
7. The status quo does not provide a resource management system (broadly defined) that helps to unblock a pipeline of investment in:
    - Housing
    - Transport
    - Primary sector production
    - Resource extraction
    - Communications
    - Energy
    - Aquaculture
8. These major projects that offer regionally or nationally significant benefits would likely produce a flow of economic and social benefits (such as to remediate the infrastructure deficit, raise incomes and enhance resilience) which are challenging or unable to be realised within the current legislative settings.

9. Without this fast-track pathway for providing approvals for major projects, New Zealand's economy will not receive the same level of growth and support, and our living standards will not be raised to the same extent.

10. The Government has signalled its intent to take a phased approach to reform of the resource management system:

    a. Phase one: repeal the Natural and Built Environment Act 2023 (NBA) and Spatial Planning Act 2023 (SPA) (now complete).

    b. Phase two: introduce a fast-track consenting regime within the first 100 days; make targeted legislative changes to the RMA by late 2024; develop new, or amend existing, national direction under the RMA; and the Going for Housing Growth work package.

    c. Phase three: replace the current RMA with new resource management legislation based on the enjoyment of property rights, while ensuring good environmental outcomes.

11. This Supplementary Analysis Report concerns phase two, the introduction of a fast-track approvals regime ("fast-track regime") for significant infrastructure and development projects.

Conservation Legislation

12. Approvals to be included in the fast-track bill include those under:

    a. The Wildlife Act

    b. Freshwater Fisheries Regulations

    c. The Conservation Act

    d. The Reserves Act

    e. The Crown Minerals Act

13. These are different to Resource Management Act approvals. Some of this legislation regulates activity interacting with wildlife/species across the country, irrespective of land tenure (e.g. the Wildlife Act, Freshwater Fisheries Regulations). Under this legislation, approvals are required to minimise the impacts on wildlife and protected species.

14. Other legislation regulates activity solely on public conservation land, which is about a third of New Zealand (e.g. the Conservation Act). The key consideration when approving activities under this legislation is the purpose for which the land is held, which is mostly set aside for protection purposes.

15. In addition, legislation governing activity on public conservation land deals with the Crown's risks and obligations as a landowner (i.e. it is more than a framework solely for dealing with impacts on conservation). Issuing a concession under the Conservation Act, for example, confers a property right to an individual (e.g. in the form of a licence or a lease) to undertake an activity, and deals with associated matters such as the Crown's health and safety responsibilities, rental fees, and similar terms and conditions.

16. Under the status quo:

    a. Off public conservation land, approvals would continue to be required for significant activities because activities can interact with wildlife and protected

species. This includes the relevant approvals under the Wildlife Act, and any approvals applied under the Freshwater Fisheries Regulations. These would continue to need to be obtained separately to any other necessary approvals, such as those under the RMA. It is possible that there are some overlaps with approvals under the RMA: the extent of any overlaps or duplication is unclear.

The Freshwater Fisheries Regulations within scope of the Fast Track Bill relate to discretionary powers exercised normally by the DG of Conservation. As these powers are discretionary, under the status quo, they would continue to be applied as needed.

b. On public conservation land, concession approvals for significant projects would still be required to undertake an activity. The fundamental purpose of public conservation land – and the purpose of associated legislation – is conservation protection. The framework differs to the RMA (which applies off public conservation land) and the bar is intentionally higher for development activities to occur. Under the status quo, activities could occur on public conservation land if they meet the requirements set out in the legislation. The legislative framework would continue to apply to ensure risk to the Crown as land manager is managed.

Other Legislation

17. Approvals to be included in the fast-track bill include those under:
    a. The Public Works Act
    b. The Fisheries Act
    c. The Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act
18. The Public Works Act: The overarching concern of delivery agencies is the time it takes for the PWA to be applied when infrastructure proposals require private land. PWA land acquisition processes are considered to be slow and complex and a barrier to the delivery of infrastructure, especially when delivering at pace.
19. As the Public Works Act balances competing interests between delivering public infrastructure and private property rights, it's crucial to ensure any changes do not impact protected rights such as property rights.
20. The undue adverse effects test (UAE) is an existing test that the Ministry for Primary Industries (MPI) is required to undertake to assess the effects of a proposed marine farm area on fishing. MPI undertakes this test on request from a regional council after a new marine farm resource consent application has been approved. The test is not required when an existing marine farm has its consent renewed. This currently is an additional step which could be undertaken more efficiently concurrently with other approvals assessments.
21. The EEZ Act is the main regulatory tool for managing activities (excluding fishing and shipping) in the area beyond the 12 nautical mile limit (in the Exclusive Economic Zone and extended continental shelf). EEZ Act consenting has been included as the projects in the EEZ tend to be of significant scale and face the similar types of challenges as those which the fast-track consenting regime is aiming to address. It will also aid consistency in the regimes across all marine zones.

What is the policy problem or opportunity?

Resource Management Act

22. The three-phase reform programme recognises the complexity and long-term nature of reforming the system, and the desire to make rapid progress on the most pressing infrastructure and development projects.

23. To make rapid progress, there are three specific problems to be addressed:

    - slow and costly decision-making, and
    - regionally or nationally significant projects that have the potential to bring positive public benefits are turned down due to an undervaluing of economic and social benefits of development, relative to other considerations.

Slow and costly decision-making

24. The Infrastructure Commission/Te Waihanga estimates that current consenting processes cost infrastructure projects $1.29 billion every year, and the time taken to get a resource consent for key projects has nearly doubled within a recent five-year period.[1] These delays and high costs suggest waste and inefficiency, and a delay in the flow of benefits to the environment and the community. This analysis focused on the direct costs to consent infrastructure projects under the RMA and does not include the costs of wider approvals needed to progress these developments.

25. Slow processes are particularly problematic when urgent responses are called for. New Zealand has faced several big shocks that require a quick planning response for economic recovery: The existing system has struggled to respond to big shocks, which has meant legislation to enable fast-tracking of development has been necessary, such as the recovery-related legislation for the Christchurch and Kaikoura earthquakes, and the COVID-19 pandemic. These pieces of legislation have directly enabled infrastructure projects that would otherwise not have occurred through the standard RMA process.

Insufficient value placed on the economic and social benefits of development relative to other considerations.

26. Ensuring a flow of benefits from development will require more than increased efficiency and quicker processes. Decision-makers also need to give more weight to the benefits of development and not be held back by out-of-date national direction or regional/district planning provisions.

27. An example of an out-of-date regional plan is the Southland Regional Coastal Plan, which was originally notified in 1997, and is still the operative direction for the Southland coastal environment. Environment Southland acknowledges on its website that that the plan needs updating and is out-of-step with current legislation and policy as well as suffering from a number of drafting issues common to first generation regional plans. Another example is the Clutha District Plan which was notified in 1995 and is still operative.

28. The existing system focusses on managing the adverse environmental effects of development, with less concern for positive outcomes such as increasing housing

[1] *The Cost of Consenting Infrastructure Projects in New Zealand*, July 2021, Sapere report commissioned by Te Waihanga

supply, raising incomes through economic development, or switching to renewable energy.

29. The RM system focuses on managing adverse effects but does not sufficiently recognise the benefits associated with an activity, such as improvements in the state of the natural environment or for economic, social or cultural wellbeing. Rather, resources must be "sustained," life-supporting capacity "safeguarded" and adverse effects "avoided, remedied and mitigated."

30. There is a lack of future focus and a bias towards the status quo. This does not recognise that our society, including how and where we live, is dynamic and constantly evolving, or the need to adapt to the effects of climate change. This is because of an emphasis on avoiding or remedying adverse "effects", the protection of existing use rights and a focus on preserving amenity for current landowners.

Other Legislation

31. Other legislative approvals considered in this SAR are:

    a. a concession under the Conservation Act 1987:
    b. an approval under the Wildlife Act 1953:
    c. an approval under the Freshwater Fisheries Regulations 1983:
    d. a concession and other permissions under the Reserves Act 1977:
    e. an archaeological authority under the Heritage New Zealand Pouhere Taonga (HNZPT) Act 2014:
    f. marine consents under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (EEZ Act):
    g. Crown Minerals Act 1991 (section 61 land access provisions):
    h. an authority under the Public Works Act 1981 to take or deal with land:
    i. aquaculture decisions under the Fisheries Act 1996:

32. Infrastructure providers have voiced frustrations with the need to obtain multiple approvals through multiple different processes, governed by different pieces of legislation.

33. Including other legislation within the Fast Track Bill provides an opportunity to streamline this process for developers of significant projects, making it cheaper and easier. This includes streamlining information requirements, decision timeframes, and the number of decision-makers.

34. The challenges/barriers to achieving more development posed specifically by conservation and heritage approvals are not well understood.

35. The proposed changes to conservation legislation are designed to reduce the protections afforded to in-scope public conservation land, and wildlife/species that are off public conservation land. This is anticipated to contribute to the policy goal of increasing the number of projects gaining approval and able to be built. However, there will also be negative impacts for other government objectives, including impacts and risks to conservation objectives and the purpose for which non-excluded conservation land is held.

What objectives are sought in relation to the policy problem?

36. There are four objectives in relation to the policy problem:

    - more rapid and less costly consenting processes for major projects
    - simpler and less burdensome application processes, across several regulatory systems
    - an increase in favourable decisions for major projects that have regionally or nationally significant benefits
    - uphold all Treaty settlement and other arrangement[2] obligations

37. In designing a policy intervention, officials are mindful of the Coalition Government's commitment to upholding redress in Treaty of Waitangi settlements, and to managing adverse impacts on the environment.

38. A faster, cheaper, simpler system that places more value on development can be expected to help remove barriers to the delivery of major projects but may be insufficient. Other factors, beyond the scope of this policy intervention, are also important. These include the availability of investment funding (whether private or public), and if there is consumer demand present such as demand for renewable energy.

[2] Cabinet agreed that, in addition to Treaty settlements, other legislative arrangements would be upheld including those under the Marine and Coastal Area (Takutai Moana) Act 2011, Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019, Mana Whakahono ā Rohe and joint management agreements under the RMA

Section 2: Deciding upon an option to address the policy problem

Focus of this regulatory impact assessment

39. This SAR discusses options for what a fast-track system could provide for, considers key policy matters which reflect the proposed architecture of the Bill and assesses whether there are any risks of unintended consequences involved with the preferred options. The aim of the analysis is to recognise high-level costs and benefits, and does not monetise the costs or benefits due to the timeframe constraints preparing this SAR.

What criteria will be used to compare options to the status quo?

40. We have used the following criteria to compare the different options. The criteria are weighted equally.

    a. **Expediency** (Objective 1) – the ability of the option to achieve the outcome sought in the quickest timeframe available.

    b. **Reduce cost and provide savings** (Objective 1) - the potential of the option to reduce costs and provide savings on infrastructure developers, local communities, and future generations.

    c. **Simplicity** (Objective 2) – the ability of the option to reduce bureaucracy needed to support decision-making and minimise the number of decisions needed to achieve an outcome.

    d. **Certainty** (Objective 2) - the ability of the option to provide major projects with confidence that approvals will be granted and the development can proceed, that they have sufficient assurance to rely on to receive funding and financing support.

    e. **Effectiveness** (Objective 3) – the ability of the option to prevent major projects from being delayed by rules and broader policy objectives set by resource management national direction, regional/district planning provisions, conservation statutory documents (e.g. conservation management strategies/plans), and the purpose for which conservation land is held.

    f. **Uphold Crown obligations under Te Tiriti o Waitangi** (Objective 4) – the ability of the option to honour the Treaty and uphold Treaty settlements and other arrangements.

    g. **Manage Risks** – the potential of the option to result in unintended consequences.

What scope will options be considered within?

41. The proposal to introduce a new standalone fast-track regime is part of the National – New Zealand First Coalition Agreement. We have included the assessment of one other regulatory option in this SAR as well as the status quo.

42. Reduced timeframes limited our ability to assess the feasibility of a broader range of options, including non-regulatory options. A non-regulatory approach to the problem could involve the provision of guidance material for applicants and local government to make application requirements clearer, as well as increasing support and resources for local government to enable decisions to be made quicker.

43. We did not undertake analysis on an option of not providing a fast-track pathway to progress development projects quicker as this does not align with the Government's objectives.

What options are being considered?

Broad options for developing a Fast-track system:

44. Three broad options for developing a fast-track system have been identified:
    a. **Option A**: Maintaining the status quo/counterfactual.
    b. **Option B**: Standalone new fast-track legislation.
    c. **Option C**: Amend the RMA to provide for a new fast-track system to be included.

Option A – *Status Quo / Counterfactual*

45. The status quo provides for an RMA consenting regime, and approval regimes under the Conservation Act, Wildlife Act, Reserves Act, Freshwater Fisheries Regulations, Crown Minerals Act, Heritage Act, EEZ Act and the Public Works Act. Each of these pieces of legislation have been specifically developed to achieve their relevant purposes through balancing socio-economic outcomes and the protections necessary to safeguard against adverse or unforeseen events. In the case of legislation governing public conservation land, it has a very deliberate skew towards conservation given the very particular purpose for which the land is held.

46. Treaty settlements and other arrangements provide for PSGEs and other Māori representative groups to have varying degrees of influence on decisions made under the RMA and other legislation governing the approval regimes noted above. These arrangements are significant and many of them alter the standard approval processes. All Treaty settlements were made in the context of the relevant governing legislation and each statutory approval regime has its own specific provisions for Māori interests, Treaty clauses, and each regime has been modified by Treaty settlements in different ways.

47. The status quo includes the saved fast-track provisions under the Natural and Built Environment Act 2023 (NBA) which was repealed on 19 December 2023. These saved provisions were intended to be a short-term solution while a new permanent regime was developed. With the repeal of the majority of this legislation, the remaining fast-track provisions do not have the comprehensive provisions which sit around the regime and are likely to have gaps that would be identified if the fast-track provisions were retained in perpetuity in this format.

Option B – Standalone new fast-track legislation (Option in the Bill)

48. This option establishes a new piece of standalone fast-track legislation that provides for a one-stop shop for many of the approvals necessary to progress major infrastructure and development projects. These approvals include those obtained through the Conservation Act, Wildlife Act, Reserves Act, Freshwater Fisheries Regulations, Crown Minerals Act, Heritage Act, EEZ Act and the Public Works Act.

49. This legislation is designed to interface with the RMA and other one-stop-shop statutes where necessary to encompass provisions on compliance, monitoring and enforcement as well as administrative functions. This new legislation would enable faster applications processes, lower application costs and increased certainty for development projects that they are likely to be approved.

50. Under this option, processes will be simplified for applicants. Applicants would be required to submit the relevant application and information through a single process, and public notification/hearings processes under existing legislation will be removed. The legislation will prescribe shortened timeframes for decisions to be made. An independent Expert Panel will make recommendations to decision-making Ministers, after referral. Decision-making Ministers would make final decisions on all approvals. The Minister of Conservation would remain the responsible Minister for all concession approvals on public conservation land, to ensure continued management of the Crown's obligations as a land manager.

51. This option also involves changes to ensure more projects are approved than under the status quo. This includes that approvals must meet the purpose of the Fast Track Bill, relevant statutory documents will apply in a less directive manner (national policy statements, conservation management strategies/plans, etc), and impacts on wildlife are changed to narrow the focus to taking account of impacts on threatened, data deficient, and at-risk species. The requirement for decision-makers to reject an application for a concession on conservation land if the activity can take place in another location off conservation land will also be removed.

52. The Bill will also allow for the swapping of conservation land where the exchange results in a net conservation benefit, and for conservation covenants to be amended or revoked with the agreement of the landowner and the Minister of Conservation or covenanting agency.

53. Those changes would allow for more development to take place on public conservation land. To protect New Zealand's most precious places, conservation land listed on Schedule 4 of the Crown Minerals Act will not be eligible for Fast track consenting or land exchange. This includes National Parks, Nature Reserves, Wilderness Areas, Ecological Areas and others.

Option C – Amend the RMA to provide a fast-track pathway

54. Amend the RMA to include a fast-track pathway, using the architecture similar to the fast-track pathway in the NBA. This option would be limited to RMA approvals only but could also include linkages or connections to other statutes in appropriate locations.

55. This option would result in Part 2 of the RMA – including the purpose and Treaty provisions – setting the framework that the fast-track system would operate within. Embedding a fast-track process within the RMA would provide greater legal certainty that the extensive jurisprudence of the RMA would apply to the fast-track process.

56. The one-stop-shop is not included in this option. More time would be required to develop the linkages between the various statutes and deal with the potential conflicts between their purposes (e.g. the Conservation Act) and the development enabling purpose of the proposed Fast Track Consenting Act (Option B). A one-stop-shop based in the RMA with linkages into other relevant legislation could be developed in the future.

How do the options compare to the status quo/counterfactual?

	Option A – Status Quo / Counterfactual	Option B – Standalone fast-track bill	Option C – Amend the RMA
Expediency	0 The time taken to get a resource consent under the status quo for key projects has nearly doubled within a recent five-year period and can be expected to increase further	++ The timeframes provided in the legislation will provide certainty of quicker processing times for applications (an RMA processing time of notified consents with no hearing is 60 working days and this could be reduced to 55 days under the fast-track regime proposed) . Additionally, a targeted purpose statement provides clarity to applicants on what is required, which will enable applications to be more targeted in their information requirements which, in turn will save time in processing.	+ It is likely that the timeframes provided in this legislation would be designed to provide certainty of quicker processing times for applications
Reduced Cost	0 The Infrastructure Commission/Te Waihanga estimates that current consenting processes cost infrastructure projects $1.29 billion every year	++ Reduced costs as the information requirements and timeframes are streamlined because there is no requirement on the expert panel to notify or hold a hearing	- Although quicker timeframes might provide some reduction over time it is likely that costs of consent would continue to rise as there would still be requirements to notify or hold a hearing.
Simplicity	0 The status quo is highly prescriptive with regards to information requirements for applications and for making decisions which limits the flexibility of decision-makers to focus on the criteria that matter in relation to the application.	++ Enable a broad range of activities to receive approvals across more than just the RMA. This one-stop-shop approach will make the application process much more efficient to progress major develop projects which often require approvals under multiple pieces of legislation	+ This option would enable less complexity for the RMA, but does not provide for one-stop shop approvals
Certainty	0	++	0

	Due to the number of approvals needed for a major project to progress, development can be held back from proceeding due to a singular approval.	The high bar for an application to be declined provides increased certainty that projects will go ahead when they have been referred	Due to the number of approvals needed for a major project to progress, certainty that a development can proceed is limited to the receipt of the last approval.
Effectiveness	0 The RMA requires that all planning documents will be reviewed after 10 years although this is rarely achievable due to capacity constraints in the planning system. As a result, there are a number of outdated planning provisions which cause uncertainty and limit progressive decision-making. This can be expected to increase/remain a problem under the status quo	+ Direction from national direction and regional/district plan provisions would still apply where relevant and consistent with the purpose of this legislation	- The policy cycle anticipates that all planning documents will be reviewed after 10 years although this is rarely achievable due to capacity constraints in the planning system. As a result, there are a number of outdated planning provisions which cause uncertainty and limit the ability of progressive decision-making
Treaty	0 It is unlikely that there would be any significant deterioration or improvement against this criterion under the status quo/counterfactual.	- The Government has committed to upholding Treaty settlements and other arrangements. There is provision for an overarching clause requiring consistency with Treaty settlements and some specific process steps for protecting key elements of upholding Treaty settlements. If these provisions work as intended, this will likely uphold Treaty settlements and maintain the level of redress provided in those settlements. There is therefore likely to be neither an improvement or deterioration from the status quo. Whilst the	+ The RMA contains provisions and processes that provide for Māori interests and any system embedded into the RMA would benefit from these existing protections and processes. Treaty settlements that were developed under the RMA system and reference the RMA would be more straightforward to uphold under this option.

		impacts on Treaty settlements are likely to be neutral, the net impacts are likely to be negative for broader Māori rights and interests, that will likely outweigh any benefits for Māori developmental interests.	
Manage Risks	0 Impacts on the environment, conservation values, and public conservation land continue to be managed under existing legislation. However, this option presents a risk that the infrastructure deficit in New Zealand will continue to grow.	- This option presents a risk to system coherence by introducing a new regime with different legislative settings and with potentially unclear links to existing processes and decision-making. This option also presents a risk to the environment and to sustainable management of resources if the legislation is enabled to sidestep existing environmental protections agreed through RMA Plans. There will also be greater impacts on wildlife and protected species. More development will occur on public conservation land, with associated reductions in conservation values.	0 This option presents a risk that the amendments to the RMA would not be sufficient to address the barriers of approvals needed under multiple pieces of legislation.
Overall assessment	-	++	+

Example key for qualitative judgements:

++	much better than doing nothing/the status quo/counterfactual
+	better than doing nothing/the status quo/counterfactual
0	about the same as doing nothing/the status quo/counterfactual
-	worse than doing nothing/the status quo/counterfactual
- -	much worse than doing nothing/the status quo/counterfactual

What is the chosen option?

57. The chosen option is B – a standalone fast-track piece of legislation. This option best aligns with the criteria, and the policy objectives.

58. This option enables major projects to apply for all the approvals that they need in one place, to streamline and simplify the application process and reduce bureaucracy around decision-making.

59. Below are six key policy matters that have fundamentally shaped the structure of the fast-track bill. The rationale for choosing these six matters is that they are the most influential matters and have the most significant impact on the design of the Bill.

60. The analysis focuses on determining the options for each of the matters, and identifying the costs and benefits based on the criteria above to ascertain a preferred option for each matter.

61. Further analysis is also provided with regards to matters which have informed approvals under the Public Works Act.

62. We acknowledge that there are many further details which are important for how this Bill will operate. These include the amendments to other relevant existing legislation, which will have further assessment completed as part of the post-implementation assessment.

Key policy matters which have shaped the architecture of the bill:

63. Six key policy matters which shape the architecture of the proposed fast-track system have been identified:

    a. **Matter 1**: Who is the substantive decision-maker for approvals.

    b. **Matter 2**: What is the purpose of the legislation.

    c. **Matter 3**: What is the weighting attributed to the fast-track purpose in comparison to other relevant existing legislation.

    d. **Matter 4**: Should RMA prohibited activities be ineligible for this fast-track regime.

    e. **Matter 5**: What approvals are appropriate to provide for through this legislation.

    f. **Matter 6**: How projects enter the fast-track process.

Matter 1: Who is the substantive decision-maker for approvals.

Option A – Expert Panels are the decision-maker (Preferred)

64. This option puts the legal risk of decision-making onto the expert panel (rather than the relevant Ministers).

65. Note that for concessions on public conservation land, this option would include decision-making which entails transferring property rights and decisions concerning the Crown's obligations as a land manager (health and safety, setting rental fees, etc).

66. The expert panel will need to provide substantial and robust reasoning and rationale to ensure transparency and consistency on decisions made.

67. This option provides for the expert panel to determine the appropriate conditions to apply to ensure adverse effects of the project are managed. Setting conditions requires

expert knowledge which does not reside with Ministers or officials, which expert panels are best placed to provide.

68. This option includes the ability of the relevant Ministers to re-refer a decision with increased direction to the expert panel if a substantive decision is made which the Minister disagrees with. This would not alter the substantive decision made by the expert panel but enables a second review to be made after the first substantive decision is made, if the relevant Minister considers that further information is relevant and may change the outcome.

Option B – Ministers are the decision-maker (Option in the Bill)

69. This option puts the legal risk of decision-making onto the relevant Ministers (rather than the expert panel). There will still be an expert panel, who will provide a recommendation to the Minister to support their decision-making.

70. Ministers making decisions will need to provide substantial and robust reasoning and rationale to ensure transparency and consistency on decisions made. This rationale will need to include reference to the expert panel's recommendatory report and additional comments from relevant Ministers where decisions deviate.

71. As the expert panel is the point in the process where submissions can be received and differing views identified and weighed, there may be natural justice issues if the relevant Minister makes a decision which deviates from the expert panel recommendation without seeking views of affected parties.

How do the options compare to each other?

	Option A – Expert Panels make decisions	Option B – Relevant Ministers make decisions
Expediency	++ This option has fewer steps needed for a substantive decision to be reached. This is likely to lead to quicker processing timeframes.	- This option has an additional step for decision-making as the relevant Minister will need to write their report following receipt of the recommending report from the expert panel
Reduce Cost	+ This option may have increased time for the expert panel (which have a higher charge out rate than cost recovery from Ministers or officials time), particularly to progress any appeals or reviews lodged against the substantive decision, which will have additional costs which fall to the applicant. However, this option also has one less step for decision-making which is likely to reduce application processing costs overall.	- There is likely to be additional costs to the Crown of the further analysis required of officials to support Ministers to make their final decision. The costs of this additional decision-making step will be passed onto applicants via cost recovery, although the full costs are unlikely to be met this way. As a result, the Crown will bear some of this cost burden. This cost burden on the Crown would increase in the case of an appeal.
Simplicity	+ This option would not add an additional step to decision-making.	- This option would add an additional step to decision-making.

Certainty	+ The level of uncertainty is likely to be lower with an expert panel as the decision-maker, as there is a smaller chance of outlier decisions.	0 The level of uncertainty is likely to be higher with this option, as there is an additional step with the recommendation from an expert panel prior to the final decision from the Minister. Additionally, there is a perceived risk that the decision-making becomes potentially political, and an increased likelihood of judicial review and/or appeal of the decision due to this perceived risk.
Effectiveness	0 This option would apply the same weighting to RMA national direction and Regional/District planning provisions as provided for in the legislation.	0 This option would apply the same weighting to RMA national direction and Regional/District planning provisions as provided for in the legislation.
Treaty	+ Some existing Treaty settlements / other arrangements include procedural matters relating to the appointment of a decision-making body for hearings and decisions on resource consent applications. These include, for example, requirements for iwi or hapū to participate in the appointment of hearing commissioners; or to be on panels hearing resource consent applications. This option would be able to accommodate these existing Treaty settlement arrangements.	- - Some existing Treaty settlements / other arrangements include procedural matters relating to the appointment of a decision-making body for hearings and decisions on resource consent applications. These include, for example, requirements for iwi or hapū to participate in the appointment of hearing commissioners; or to be on panels hearing resource consent applications. Ministers would need to include relevant iwi or hapū in decision making on applications where these Treaty settlements apply to uphold these Treaty settlements.
Manage Risks	- This option has reduced legal risk on the substantive decision. However, outsourcing the Crown's management of costs and liabilities upon public conservation land will create significant moral hazard risks, with significant cost, health, and safety implications.	- This option has increased legal risk of judicial review on the decisions made by Ministers, particularly if they differ in their final decision from the recommendation of the expert panel.
Overall assessment	Preferred option	Option in the Bill

Matter 2: What is the purpose of the legislation

Option A – Purpose focused on facilitating project delivery (Option in the Bill)

72. This option focuses the purpose on facilitating the delivery of infrastructure and development projects with significant regional or national benefits.

73. This option does not include reference to sustainable management or environmental protections in the purpose, although these matters will still be relevant when setting conditions and for the expert panel consideration of an application on its merits.

Option B – Purpose focused on project delivery as a primary consideration, while still providing for sustainable management as a secondary consideration (Preferred)

74. This option focuses the purpose on facilitating the delivery of infrastructure and development projects with significant regional or national benefits and, to a lesser extent, taking into account the sustainable management of natural and physical resources for current and future generations.

75. This option sets out a clear hierarchy of obligations in the purpose, which uses consistent language to the RMA purpose statement.

76. This option seeks to apply sustainable management to other legislative approvals, where its application is untested.

77. Other options which do not provide for project delivery as the primary focus of the purpose of this legislation have been discounted, as this would not align with the intent of this legislation as scoped by Cabinet.

How do the options compare to each other?

	Option A – Focused on project delivery	Option B – Primary focus on project delivery but also secondary focus on sustainable management
Expediency	++ This would reduce complexity for decision-makers by not requiring consideration of sustainable management or environmental protections at the referral stage	- This would include additional matters which would need to be considered relative to the primary focus. This would likely take more time than Option A.
Reduce Cost	0 By providing a simplified streamlined purpose, environmental costs and impacts on sustainable management are likely to not be considered until the expert panel stage, rather than at the referral stage of the application process. Consequently, applications may be progressed that have not comprehensively provided the information that an expert panel may require, resulting in further time and cost at the expert panel stage to work through any further information needed.	+ This option has increased clarity on the information that an application would need to prepare with regards to environmental costs and impacts on sustainable management. This enables applicants to prepare this information at the same time as they collate the other information that they are required to provide for the referral application.

Simplicity	- This option has less matters to consider at the referral stage and will focus the legislation on project delivery. However, this option will likely have lower operational efficiency as it does not as clearly articulate the anticipated information requirements necessary for the merits-based assessment at the expert panel stage.	+ This option balances two matters, and therefore adds complexity. However, greater operational efficiency is gained by providing transparency up front at the referral stage on the likely information requirements.
Certainty	++ This option does not seek to apply sustainable management to other legislative approvals, where its application is untested.	- This option seeks to apply sustainable management to other legislative approvals, where its application is untested. The uncertainty of how this would be applied in the context of other approvals adds complexity to anticipated decision outcomes.
Effectiveness	- The streamlined purpose would enable a clear lens to be applied to existing national direction and regional/district plan provisions. While this may result in receiving decisions quicker on major projects, it is unlikely to be effective at ensuring the projects that are granted offer the socio-economic benefits that communities expect from these major projects.	0 Including a secondary focus of sustainable management could place more weight on the secondary purpose than intended as the secondary purpose better aligns with the RMA purpose which would make connection to out-of-date direction more likely to occur. This could be managed, and the unanticipated weighting addressed through the release of guidance materials.
Treaty	- Enabling infrastructure and other projects could support Māori development interests but as this option does not provide any direction for sustainable management, this option has risk of increasing environmental degradation and reduced protection of Māori environmental interests in taonga.	+ Enabling infrastructure and other projects could support Māori development interests and with the additional support for sustainable management, this option has reduced risk of environmental degradation and some protection of Māori environmental interests in taonga.
Manage Risks	There will be greater impacts on wildlife and protected species. More development will occur on public conservation land, with associated reductions in conservation values.	Recognition of wider values will limit associated wider impacts to some degree. However, there will be greater impacts on wildlife and protected species compared to the status quo. Applying an RM-style purpose to public conservation land would mean that more development will occur on public conservation land, with associated reductions in conservation values.

Overall assessment	Option in the Bill	Preferred option

Matter 3: What is the weighting attributed to the fast-track purpose in comparison to other relevant existing legislation

Option A – Provide a hierarchy which includes the purpose of the bill ahead of other relevant legislation obligations (Option in the Bill)

78. This option provides a hierarchy which would direct decision-makers on the weighting to attribute to matters when in conflict. This option provides for the purpose of the fast-track bill to be the most important consideration when making decisions, followed by considerations under other relevant existing legislation.

79. When considering an application, the expert panel would take into account the following matters, giving weight to them (greater to lesser) in the order listed:

    a. the purpose of the fast-track bill (including reasons why the Joint Ministers referred the application):

    b. considerations under relevant existing legislation:

80. The Bill will also set out how the expert panel assessment applies the hierarchy under the relevant legislation. For example, for approvals under the RMA, giving weight to the following considerations (greater to lesser) in the order listed:

    a. the matters in section 5 of the RMA and the purposes of the Conservation Act, Wildlife Act, Heritage Act, EEZ Act, Reserves Act, Crown Minerals Act and Public Works Act as relevant:

    b. the matters in section 6 of the RMA:

    c. the matters in section 7 of the RMA:

    d. any relevant national direction, operative and proposed plans or policy statements, or iwi management plans under the RMA and any relevant conservation management plan and conservation strategy made under the Conservation Act 1987.

81. This option would result in the possibility for decisions made under this fast-track bill to reach different decisions, than would have been reached under the existing relevant legislation.

Option B – Weighting of other relevant legislation obligations equally with the fast-track purpose (Preferred)

82. This option provides for the obligations in existing relevant legislation (ie, the legislation relevant to approvals covered by the one-stop shop) to continue to have the same level of direction on decision-making that they currently hold.

83. The purpose of the fast-track bill would be just another component to consider when making decisions, but does not override the current weight afforded to the existing relevant legislation.

84. For example, applications for fast-track that seek approvals under the RMA would continue to apply RMA Part 2 matters, RMA national direction, operative and proposed plans/policy statements under the RMA and relevant assessment clauses of the RMA to the same level of direction in decision making as they currently have for applications processed under the RMA.

85. Under this option, decisions that would have been made on merits under existing relevant legislation would continue to be made (ie, this results in the same or similar decision outcomes, just occurring faster).

How do the options compare to each other?

	Option A – Hierarchy provided with primacy given to fast-track purpose	Option B – Weighting of other relevant legislation obligations equally to the fast-track purpose
Expediency	0 This option would not provide any time savings as the matters relevant to the decision will still need to be considered, regardless of the weighting which is applied to them.	0 This option would not provide any time savings as the matters relevant to the decision will still need to be considered, regardless of the weighting which is applied to them.
Reduce Cost	- By providing clear hierarchy for decision making, it is likely that application costs and information requirements will be targeted towards this hierarchy, with the focus of the application on the matters of most importance to decision making. This cost saving is likely to be limited as all the same matters are still required to be considered, it is only the weighting which varies. The risk is increased environmental costs for future generations as the mitigations and protections in the other legislation have been given less weight in the decision-making process.	+ Application costs are likely to be slightly higher as they will need to include assessment against the matters currently assessed for approvals in other relevant legislation and the new fast-track bill purpose. This higher cost is likely to be limited as all the same matters are still required to be considered, it is only the weighting which varies. However, costs imposed on future generations are reduced as the mitigations and protections in other legislation retain their previous weighting.
Simplicity	+ This option would likely reduce operational requirements as the purpose is focused on project delivery and has a higher weighting in the hierarchy than other existing direction for decision-making.	- This option would likely have higher operational requirements as there is likely to be conflicting priorities under the fast-track bill purpose and other existing direction for decision-making.
Certainty	+ This option provides a clear focus of the legislation through promoting the fast-track bill purpose above other existing	0 This option adds uncertainty to decision-making through introducing new decision-making criteria (ie, fast-

	direction for decision-making. This is likely to provide certainty for projects that are consistent with this purpose for project delivery that they are likely to go ahead.	track bill purpose) without clearly articulating how this new criterion fits in with existing direction for decision-making. This uncertainty could be mitigated with guidance material.
Effectiveness	**0** This option would not provide any time savings as the matters relevant to the decision will still need to be considered, regardless of the weighting which is applied to them.	**0** This option would not provide any time savings as the matters relevant to the decision will still need to be considered, regardless of the weighting which is applied to them.
Treaty	**-** This option would diminish the protections in other existing legislation which provide for Māori interests and Treaty protections. Whilst there are protections included in the standalone fast-track legislation, these do not replicate or provide equivalence for the protections in the existing legislation (such as Part 2 of the RMA or s4 of the Conservation Act).	**+** This option would maintain the weighting of protections for Māori interests and Treaty clauses that are in the existing legislation.
Manage Risks	**-** This option risks diminishing the mitigations and protections in other existing legislation which provide for better environmental outcomes to be achieved. This option also undermines local voice regarding the anticipated development and use of resources in their region.	**++** This option better upholds the established environmental protections in existing legislation, and better reflects the local voice which has contributed to the development of national direction and regional/district plans.
Overall assessment	Option in the Bill	Preferred option

Matter 4: Should RMA prohibited activities be ineligible for this fast-track regime.

Option A – Prohibited activities are not ineligible, but joint Ministers may consider prohibited activity status as part of their referral decision (Option in the Bill)

86. There are a range of six activity classes under the RMA: permitted, controlled, restricted discretionary, discretionary, non-complying and prohibited.

87. Prohibited activities are the most restrictive activity status and rarely used. They are specified in rules (within district and regional plans and Environmental Standards) not in National Policy Statements. Under the RMA, prohibited activities may not be carried out, and no resource consent can be sought or granted.

88. This option enables prohibited activities under the RMA to apply for approvals through the fast-track process, but does not guarantee that they will be referred by a relevant

Minister as they have discretion to consider the prohibited activity status as part of their referral decision.

89. Prohibited activities under the EEZ Act will still remain ineligible for applications to the fast-track process as these prohibited activities relate to international obligations, and removal of this prohibited activity status may result in New Zealand breaching international obligations.

Option B – Retains prohibited activities as ineligible for referral into the fast-track process. (Preferred)

90. There are a range of six activity classes under the RMA: permitted, controlled, restricted discretionary, discretionary, non-complying and prohibited.

91. This option would enable the first five activity classes under the RMA to apply, but would retain the prohibited activity status as ineligible.

92. As a result, no application could be accepted which contained an approval for a prohibited activity, and there would be no ability for Ministers to have discretion to accept an application which contains a prohibited activity approval.

93. This option is consistent with the approach taken for the COVID-19 Recovery (Fast-track Consenting) Act 2020 (FTAA).

How do the options compare to each other?

	Option A – RMA prohibited activities not ineligible	Option B – RMA prohibited activities are ineligible
Expediency	- This option may take longer as there is increased Minister discretion on the appropriateness to accept applications which contain activities prohibited under the RMA.	+ This option has no discretion for Ministers to assess the appropriateness of referring applications which contain activities prohibited under the RMA. As there is no discretion, this option would be faster.
Reduce Cost	- - This option would likely add cost to the consenting process, as it will take time to assess the appropriateness of referring an application containing an activity prohibited under the RMA, which will then be subject to judicial review which may add further time and cost. Additionally, prohibited activities have a high test under the RMA for this categorisation so are likely to have proven costs which a contrary to Part 2 of the RMA.	- As activities would remain prohibited, this option does not add any extra costs beyond what is currently provided for in the RMA, although overall it may result in a project being substantially changed or restricting the ability of the project to proceed due to a prohibited activity status.
Simplicity	-	+

	This option would add an additional step to decision-making on referral.	This option would not add an additional step to decision-making on referral.
Certainty	- This option decreases certainty for those applying for a prohibited activity, as the ability to apply or not is at the discretion of the relevant Minister.	+ This option offers increased certainty as the ability to apply or not is established by the ineligibility criteria.
Effectiveness	+ This option would enable discretion for the relevant Minister to determine the appropriateness of proceeding with a prohibited activity and may better facilitate a major project if the previous delay was because they are not able to identify another way of achieving the same outcome without a prohibited activity.	- This option would limit the ability of major projects with prohibited activities under the RMA from using this process. This may delay a major project if they are not able to identify another way of achieving the same outcome without a prohibited activity.
Treaty	- There may be conflicts that arise between the prohibited activity and a Treaty settlement (particularly those that provide for a specific function in plan making). Resolving any conflict would be at the discretion of the relevant Minister making the referral decision. It would be more difficult to honour the Treaty and uphold Treaty settlements and other arrangements under this option.	**0** This option would not provide any additional impacts on the Treaty or Treaty settlements and other arrangements.
Manage Risks	- - Prohibited activities often have significant environmental or human health effects (eg, discharge of raw wastewater to rivers, the burning of hazardous substances and associated discharge of contaminants to air). Many prohibited activities are also there to protect existing significant infrastructure (eg Auckland Airport's to protect the operation of the airport). This option could enable local voice to be diminished as it overrules decisions made by communities through existing national direction and regional/district plan provisions about prohibited activities.	+ This option has no additional risks as it retains the status quo for prohibited activities under the RMA.
Overall assessment	Option in the Bill	Preferred option

Matter 5: What approvals are appropriate to provide for through this legislation.

Option A – Provide for RMA approvals to be granted through this legislation, but include connections to other relevant approval processes to streamline information requirements, timelines and decision making

94. This option provides a pathway for a major project to receive RMA approvals for a resource consent, certificate of compliance or a designation.

95. This option does not include approvals under other existing relevant legislation which a major project may need approval under, including the Conservation Act, Wildlife Act, Reserves Act, Freshwater Fisheries Regulations, Heritage Act, EEZ Act, and the Crown Minerals Act.

96. However, this option does streamline the approvals by aligning information requirements, timeframes and consistent decision-making. While this option does not change who the respective decision-maker is for approvals under other legislation, it provides links in the legislation to streamline the processes of receiving approvals.

97. This linking process would be similar to how the Building Act and the RMA currently interface with regards to resource consent decisions, with provisions in both statutes which connect relevant decision-making points and establish clear timelines for how the interface operates.

Option B – Provide for this legislation to grant approvals for RMA and other one-stop-shop approvals (Option in the Bill and Preferred)

98. This option provides for one application to be lodged, and for that application to be considered by one decision-making body, and for that body to provide approvals under all the other existing relevant legislation provided in the one-stop shop.

99. The way other one-stop shop legislative direction guiding decision-making is weighted in relation to the fast-track processes is set out in Issue 3 above.

100. The composition of the expert panel will be appropriate to provide the skills and knowledge needed to assess the merits of an application and make a robust recommendation to decision-makers for all of the approvals that are included in the application.

101. The 'bundling' of consents and permissions ensures that all the information the expert panel needs to make a recommendation is in place.

How do the options compare to each other?

	Option A – RMA approvals only but links to approval processes under other relevant legislation	Option B – provide one-stop shop approvals through this legislation
Expediency	- While this option would align timeframes for decision-making, a delay for one approval may delay approvals for the project as a whole without the oversight	++ This option would provide for one decision-maker for all the approvals needed which would enable a more comprehensive approach to decision-

	that a collective decision-maker would be able to provide to weight the significance of that one approval in the bigger picture to enable the project to go ahead.	making and ensure that one approval couldn't be delayed holding up the whole project, unless it was important from a big picture perspective of the assessment for the project.
Reduce Cost	- - This option would likely have higher application costs, as all the decision-makers for all the approvals would need to assess the project as it relates to their component. This causes a double up of work that needs to be cost recovered.	+ This option would have reduced costs as one decision-maker diminishes the duplication of work assessing the application seeking approvals.
Simplicity	+ This option has more moving parts, but it does also have the least change from the existing decision-making processes which are well established, and the current respective decision-makers are clear on what is expected from them which makes the decision-making processes efficient. The efficiency gained by retaining the existing systems is only a saving in the short term as over time the new decision-makers will also be equally proficient at the decision-making processes.	++ This option would streamline the decision-making process and minimise the number of steps needed to reach decisions.
Certainty	- - This option has reduced certainty as multiple decision-makers will inherently have slightly different considerations when making decisions.	+ This option has increased certainty as all the decisions needed will be under the fast-track legislation which enabled a consistent approach to be taken for all approvals.
Effectiveness	- While the fast-track provisions would provide direction to the respective decision-makers on the hierarchy for weighting decision-making tools, the established ways of working would be hard to adjust causing tension if there were any ambiguity identified in the legislative direction.	++ This option is likely to best enable decision-makers to consider the appropriateness of outdated national direction or planning provisions.
Treaty	- This option would likely have negative impacts on honouring the Treaty and upholding Treaty settlements as the equivalent protections for Māori interests to those under the RMA or other one-stop shop approval legislation wouldn't be provided for.	- - This option would likely have significantly negative impacts on honouring the Treaty and upholding Treaty settlements, as the impacts noted for Option A would be exacerbated by including one-stop shop approvals through this legislation.
Manage Risks	++	- -

	This option requires less time for drafting the legislation, which reduces risk that the legislation can be completed within the requested timeframes.	There has been very limited analysis of including conservation approvals. Inclusion will have impacts on wildlife and conservation land. These impacts have not been quantified. This option requires more comprehensive drafting which takes longer, and there is a risk that it will not be able to be completed to the quality desired within the timeframes available.
Overall assessment	Option not recommended	Preferred and Option in the Bill

Matter 6: How projects enter the fast-track process

Option A – Only projects referred by the relevant Minister access the fast-track process (Preferred)

102. This option would enable only one pathway for a project to enter into the fast-track process. They apply and are referred by a relevant Minister.
103. This option does not provide for listing projects in the legislation.

Option B – Both projects listed in the legislation, and projects referred by a relevant Minister, enter the fast-track process (Option in the Bill)

104. This option provides two pathways for projects to enter into the fast-track process. They can either be listed in the legislation or can be referred by a relevant Minister.
105. Listed projects may be broken down into two categories:
    a. List A projects, which likely meet all information requirements for a referral process,
    b. List B projects, which are likely to meet the purpose of the legislation but on which there is not sufficient information to determine that they meet all eligibility requirements.
106. In this option, only List A projects are automatically referred to an expert panel for an assessment on their merits. List B projects will still need to be referred by a relevant Minister in accordance with that established pathway.
107. Note the listed projects proposed will be included in the List A and List B schedules at a later stage of the legislative process and will not be included in the Bill for introduction. We will be establishing a process whereby an independent panel will assess and make recommendations on what projects to include in the schedule.
108. The option to provide for new projects to be listed in the legislation after enactment through an Order in Council has been considered and rejected, as the Order in Council process is more complex than a referral from a relevant Minister and did not incur any further benefit.

How do the options compare to each other?

	Option A – One pathway only, just Minister referrals	Option B – Two pathways, listed projects and Minister referrals
Expediency	- In this option, projects which could be referred to an expert panel immediately after enactment, must go through the referral process first	+ This option provides a quick pathway for automatic referral to an expert panel for projects which are ready for referral. This enables these projects (Category A listed projects) to progress faster as they will be able to jump ahead and not get held-up by the referral stage. Category B listed projects will still need to go through the referral process before going to the Expert Panel
Reduce Cost	0 Applicants must meet all information requirements, and provide relevant evidence that their project is eligible to the fast-track process.	0 Project owners will have to provide all necessary information and assessment to inform the expert panel's recommendation on their projects. This will likely incur similar costs as referred projects. Projects owners will however not be subject to any consenting fee. This cost is likely insignificant compared with the costs of performing impact assessments and meeting all information requirements.
Simplicity	+ The referral process is a fairly straightforward step, which does not require public consultation.	- This option adds complexity, as it includes another pathway to enter into the fast-track process.
Certainty	0 Applicants will have certainty over whether their project aligns with the purpose of the fast-track process and is eligible once they have been referred to an expert panel. This also applies to projects which could be referred to an expert panel immediately after enactment.	0 After enactment, owners of Category A listed projects have certainty that their projects can be consented through the fast-track process. The significance of Category B listed projects gives them some assurance that their projects will likely be referred to an expert panel by the Minister when they apply for referral.
Effectiveness	0 This option would apply the same weighting to RMA national direction and regional/district planning provisions as provided for in the legislation.	0 This option would apply the same weighting to RMA national direction and regional/district planning provisions as provided for in the legislation.

Treaty	0 This option is unlikely to have any significant positives or negatives against this criterion as the impact of applications on Treaty settlements and other arrangements would be considered, when the relevant Minister assesses the project for referral.	- - Listing projects without any engagement with affected iwi and hapū could breach general obligations on the Crown to protect Māori rights and interests and could breach specific obligations Treaty settlements, other arrangements and relationship agreements.
Manage Risks	0 This option has less transparency on examples of projects that are anticipated to meet the purpose of the legislation.	- - It is anticipated that additional listed projects will be nominated through submissions received by select committee which adds complication to the select committee process and adds risks to the transparency of Bill development.
Overall assessment	Preferred option	Option in the Bill

Key policy matters which have informed the Public Works Act approvals provided for in the bill:

Matter 7: Accommodating natural justice requirements under the Public Works Act 1981

109. Note that, due to time constraints, there are other key policy issues that this analysis does not cover. This includes, but is not limited to, substantive policy changes to individual pieces of legislation, as they apply in the fast-track process. This includes changes to the decision-making criteria across the legislation. For instance, changes to the Wildlife Act to limit the considerations of the decision-maker solely to threatened, at-risk, and 'data deficient' species.

Matter 7: Accommodating natural justice requirements under the Public Works Act 1981 (PWA) (Preferred and to be progressed in parallel to the Bill)

110. The land acquisition process under the PWA seeks to balance the property rights of private landowners with the Crown's ability to enable public works to go ahead.
111. Currently the Crown, or a local authority as defined under the PWA must ensure it negotiates with landowners in good faith by giving them sufficient information and time to negotiate, and landowners have the right to raise objections to the Environment Court if the Crown or local authority moves to compulsorily acquire their land for a public work.
112. Any new process must not unduly restrict or remove private property rights and must accommodate natural justice requirements arising from section 27 of the New Zealand Bill of Rights Act 1990.

Option A – Progress legislative and operational changes

113. Under this option, legislative and operational changes would be progressed to create end-to-end efficiencies in the PWA land acquisition, including for fast-track and other land acquisition. The following areas could be included:

    a. Review compensation payments (section 72E) as a way of incentivising early agreement
    b. Exploration of legislative and process changes to incentivise landowners to reach a timely agreement to sell.
    c. Streamline the processes for giving the Notice of Desire to Acquire Land (section 18) and Notice of Intention to Take Land (section 23).
    d. Explore options to streamline access to PWA for network utility providers.
    e. Examine current practices, standards, resourcing and delegations for routine decisions to identify further efficiencies.

Option B – Streamlining Environment Court processes (Option in the Bill and Preferred)

114. The RMA process considers alternative sites for projects, whereas the PWA objections process focuses on alternatives in relation to the specific land that is subject to the objection.

115. This option would streamline the considerations that are heard during Environment Court processes. This would reduce duplication as the Environment Court would not need to consider alternative sites, routes or methods of undertaking a work if this has been considered as part of a joint determination by Ministers in the fast-track process.

116. It is recommended that the Court retain the ability to consider material new evidence if it were specific to the land being taken. Landowners may raise specific issues with their properties in a PWA objection that were not considered during the fast-track process, and the Court would require discretion in such cases.

117. The Environment Court could still consider matters relating to alternative routes for non-fast-track projects.

118. Option B could progress in parallel to option A.

Option C – Process for land acquisition as part of the FTA

119. This option would expand the role of the Expert Panel from being a consenting body to allow it to also have a hearing process to hear objections to compulsory land acquisitions. The Expert Panel would make a recommendation to the Minister for Land Information or local authority. The process would need to be carefully worked through to ensure that natural justice is maintained.

120. Consideration of objections by the expert panel would replace objections to the Environment Court under the PWA. All other aspects of the current PWA acquisition process, including statutory timeframes, would remain unchanged.

121. Option C could progress in parallel to option A.

How do the options compare to each other?

	Option A – Progress legislative and operational changes	Option B – Streamlining Environmental Court processes	Option C – Process for land acquisition as part of the FTA
Expediency	+ + End-to-end efficiencies are expected across the whole PWA land acquisition process. This would retain the existing statutory timeframes for land acquisition by agreement.	+ PWA objections would be heard in parallel to the FTA process. This avoids the potential for the FTA process to be slowed down by PWA objections. This approach may save time during the Court's deliberations on a PWA objection; however, the Environment Court process does not have specified timelines. Time savings will only occur in FTA land acquisitions, and only if there is an objection. This would retain the existing statutory timeframes and processes for land acquisition by agreement.	+ + There will be a limited time period for the expert panel to hear objections to compulsory acquisition. Time savings will only occur in FTA land acquisitions, and only if there is an objection. This would retain the existing statutory timeframes and processes for land acquisition by agreement.
Reduce Cost	+ Efficiencies in the PWA land acquisition process could reduce costs.	+ This would reduce costs for infrastructure agencies as there will be less administrative burden to provide information.	+ + This would reduce costs as having a single decision-maker lessens the duplication of work and shorter timeframes.

Simplicity	+ This would provide an opportunity to simplify and modernise the land acquisition process in the PWA.	+ This would reduce duplication between the RMA and PWA objections process.	0 Deliver administrative efficiencies, as one body would hold a hearing into objections to compulsory acquisition in parallel to considering consents. However, this will considerably add to the expert panel's responsibilities and workload.
Certainty	0 To allow for natural justice, an objections process is needed. Applicants will not be guaranteed the proposed development project can proceed.	0 To allow for natural justice, an objections process is needed. Applicants will not be guaranteed the proposed development project can proceed.	0 To allow for natural justice, an objections process is needed. Applicants will not be guaranteed the proposed development project can proceed.
Effectiveness	+ Provides an opportunity to make the PWA land acquisition process more efficient and effective.	+ + Ensures duplicative processes are removed.	+ + Ensures process is streamlined to only be one panel.
Treaty	0 Further Treaty analysis will be required depending on the changes.	0 As land returned under a Treaty settlement and identified Māori land cannot be included in a fast-track application without the landowners approval, there is not anticipated to be any significant positive or negative impacts.	0 As land returned under a Treaty settlement and identified Māori land cannot be included in a fast-track application without the landowners approval, there is not anticipated to be any significant positive or negative impacts
Manage Risks	- Process efficiencies are an opportunity to improve the land acquisition process without negatively impacting property rights.	- This option may carry fewer risks than other options owing to its limited scope, and maintenance of clear separation between the PWA land acquisition and RMA consenting regimes.	- - As the PWA objections process relates to private property rights and natural justice, Courts are likely to scrutinise these processes very closely if given the opportunity on appeal or through judicial review.
Overall assessment	Preferred and option to be progressed in parallel.	Preferred and option in the Bill.	This option is not recommended as further work would be required.

What combinations of options are likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

122. The key policy matters which shape the Bill are:

    a. **Matter 1**: The substantive decision-maker for approvals will be the relevant Ministers.

    b. **Matter 2**: The purpose of the legislation will be focused on project delivery only.

    c. **Matter 3**: The weighting attributed to the fast-track purpose in comparison to other relevant existing legislation will be determined by a hierarchy provided in the Bill with primacy given to the fast-track purpose.

    d. **Matter 4**: The activities that are ineligible for lodging an application do not include prohibited activities.

    e. **Matter 5**: The approvals which are appropriate to provide for through this legislation are approvals in the Resource Management Act, Conservation Act, Wildlife Act, Reserves Act, Freshwater fisheries regulations, Heritage Act, EEZ Act, Crown Minerals Act, and the Public Works Act.

    f. **Matter 6**: Both projects listed in the legislation, and projects referred by a relevant Minister, enter the fast-track process.

    g. **Matter 7**: Progress legislative and operational changes and streamline Environmental Court processes.

123. While the analysis shows a clear preference for a standalone fast-track bill for RMA and other approvals, some of the policy design choices present a risk to system coherence by introducing a new regime with different settings and potentially unclear links to existing processes and decision-making.

124. There is also a risk arising from these policy design choices to the natural environment and to the sustainable management of resources if this legislation is enabled to sidestep existing environmental protections as agreed by central government and communities through RMA Plans.

125. Overall, the analysis in the Treaty Impact Assessment suggests there is likely to be some benefit to Māori developmental interests which would have some positive Treaty impacts. However, the key decisions made on the fast-track bill are likely to have negative Treaty impacts for broader Māori rights and interests, that will likely outweigh the positives.

126. There is provision for an overarching clause requiring consistency with Treaty settlements and some specific process steps for protecting key elements of upholding Treaty settlements. If these provisions work as intended, this will likely uphold Treaty settlements and maintain the level of redress provided in those settlements.

127. The fast-track system is a top-down decision-making process which does not always sit comfortably with the bottom-up decision-making processes that are commonplace within te ao Māori.

Climate implications policy assessment (CIPA)

128. The Ministry for the Environment (MfE) Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal as there is no direct impact on emissions.

129. The CIPA team however notes that expediting infrastructure and development through fast-track approvals could lead to significant indirect emissions impact through increased construction activity. We also note that some fast-track projects could contribute to reducing emissions, such as renewable energy projects.

130. Individual projects undergoing the fast-tracking approvals process may undergo an emissions impact assessment, although this is at the Ministers discretion.

What are the marginal costs and benefits of the proposed Fast-track package identified above?

Affected groups *(identify)*	**Comment** *nature of cost or benefit (eg, ongoing, one-off), evidence and assumption (eg, compliance rates), risks.*	**Impact** *$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts.*	**Evidence Certainty** *High, medium, or low, and explain reasoning in comment column.*
Additional costs of the preferred option compared to taking no action			
Project developers (public and private)	Project developers will face costs to participate in the fast-track regime. These costs may be higher than the costs they currently face under non-fast track processes.	Low	High – previous fast track processes have been more costly (though the benefits of early decisions, and more certainty of approval outweigh these costs)
Central government departments (as regulators)	Government departments will face new costs to administer the referral stage of the fast-track process, including providing advice on the suitability of referring projects.	Low	High – we know there will be new costs because agencies do not currently perform these functions.
Environmental Protection Agency (EPA)	The EPA will face the cost of supporting expert panels considering fast track applications.	Medium	High – we know the EPA will support panels and they will face costs, as they do currently to administer FTAA applications.
Local Govt	Reduced influence over significant developments	High	High – projects may well have

	within their jurisdictions since fast-track decision-making is centralised.		adverse local impacts alongside regional and national benefits.
Consumers / general public as part of current generation	The reduced weight placed on RMA national direction, and operative/proposed regional/district plans for decision-making will undermine local voice about anticipated development and use of resources in their region.	Medium	High – Many people have participated in the development of RMA national direction, and operative/ proposed regional/ district plans through the public submissions processes.
Consumers / general public as part of future generation	This proposal may have negative impacts on the use of resources for future generations because it could enable stored energy/carbon to be utilised now, but may also alleviate challenges such as constraints to housing, transport, climate adaptation and associated costs to these constraints. It will also limit their choices when impacts are irreversible	Medium	Low – Predicting future trends is inherently risky, particularly over a long time horizon.
Workers	-	-	-
Iwi/Māori	Iwi/Māori will face costs to participate in the fast-track regime. This participation could include iwi/Māori as applicants, as parties being asked to provide comments, or costs arising from the nature of specific projects that may negatively impact Māori interests. There are also the opportunity costs associated with the tight timeframes to provide comment, where iwi/Māori have to either forgo being able to comment on their interests or to forgo the other matters they had	Medium	High – Many projects are likely to engage iwi interests, and participation in consent processes can be costly (eg legal fees).

	resourced in order to prioritise responding.		
Non-monetised costs		Medium	High
Additional benefits of the preferred option compared to taking no action			
Project developers (public and private)	Developers will enjoy the benefits of more rapid decision making, straightforward application processes, and a greater likelihood of receiving approval than otherwise.	High	High – the previous fast track regime received high uptake.
Government departments (as regulators)	-	-	-
Environmental Protection Agency	-	-	-
Local Government	Reduced costs from processing RMA applications [unless this is a revenue stream that subsidises other aspects of council operations].	Low – only a small number of projects will be diverted from local consideration, and those costs would have been diverted onto the applicants to an extent	High
Consumers / general public	Benefits from the amenities provided by specific projects – transport, housing, energy for example.	Medium – simpler approvals unlock a key part of the development pipeline, but other factors remain essential, such as finance.	High
Workers	Continuing and one-off employment opportunities.	Low – employment opportunities may only affect a small group, may be overstated, may benefit new migrants, and may be temporary (during start-up phases)	High
Iwi/Māori	Opportunities to access a quicker process for progressing Māori developmental interests either directly or in partnership with other developers. Benefits from the amenities provided by	Medium – As above for amenity and employment benefits. Many iwi have developmental aspirations that could benefit from a fast track process.	High

	specific projects – transport, housing, energy for example. Continuing and one-off employment opportunities.	However, some iwi (particularly non-settled iwi) may not have the upfront resources to lead projects through the process.	
Non-monetised benefits		Medium	High

Section 3: Delivering an option

How will the new arrangements be implemented?

131. The COVID-19 Recovery (Fast-track Consenting) Act 2020 has been repealed from 8 July 2023, although savings remain while lodged applications are progressed. However, no new applications are able to be lodged under the COVID-19 Recovery (Fast-track Consenting) Act 2020.

132. The Natural and Built Environment Act 2023 has been repealed from 23 December 2023, although savings remain for the fast-track provisions of this legislation. The repeal of these fast-track provisions is included in this new fast-track bill, although savings will remain for lodged applications to be progressed, but no new applications will be able to be lodged following commencement of the new fast-track system.

133. The new fast-track system will be implemented to enable any new applications to be received from commencement, which will be 1 day following royal assent.

134. The new system will be implemented across New Zealand as a whole (not sequentially), with the new regulation making power enabled from the date of commencement. There is no requirement for the new regulation making powers to be implemented, but it is anticipated that work will progress on this following commencement of the new fast-track system.

135. It is anticipated that over time, further approvals under other pieces of legislation may be investigated for inclusion in the one-stop shop and amendments made where this change is appropriate.

136. The Environmental Protection Authority (EPA) will be enabled to provide advice and secretariat support to the convenor of the Expert Panel. The EPA will also provide advice and secretariat support to members of the Panel when carrying out their functions and duties.

137. The EPA will need appropriate funding to carry out these new functions and duties. Funding will also be needed for the responsible agencies to administer this legislation, to support Minister decision-making. While costs will be recoverable from the applicant, it is unlikely that the full cost will be able to be recovered and funding will be needed to cover the back-room systems which support decision-making.

138. It is anticipated that the number of policy officials required to support the fast-track process will include a team of staff in the primary agency (a core team of approximately 5-6 permanent officials), as well as smaller teams in other agencies including Department of Conservation (DOC) and the EPA (of approximately 3-4 permanent officials). The skills and expertise of officials are anticipated to be financial, communications, RMA planning and project management, and Treaty assessment specialists. A policy principal in the primary agency will also be needed for approximately 0.5 FTE to support on briefings and advice to Ministers.

139. The workload for agencies is likely to be variable depending on the lodgement of applications and the receipt of recommendations from the expert panel. Agencies may need to surge staff to support the core team during key periods. It is estimated that key periods will be at the end of the calendar year and the end of the financial year.

How will the new arrangements be monitored, evaluated, and reviewed?

140. Cabinet agreed [CAB-23-MIN-0468] that although RISs (or in this case SARs) are still required for new policy proposals put forward as part of the 100-days work programme, there is no need for formal quality assurance of the RIS. Treasury has advised that for agencies that do not have time to prepare comprehensive impact analyses the focus should be on cost-benefit analysis and implementation issues, however, post-implementation assessments are required after legislation enactment. As a result, a post-implementation assessment will be undertaken jointly by MfE and Ministry for Business, Innovation and Employment (MBIE) one year after enactment of the legislation.

141. This post-implementation assessment should provide approach assurance from MfE and MBIE that on-going system performance monitoring establishes appropriate system indicators which are integrated into the regulatory stewardship obligations of these agencies. These system indicators are not intended to measure every aspect of the fast-track legislation but should enable the performance of the legislation to be traced in a tangible way.

142. Some initial system indicators to be collected quarterly for this interim period prior to the post-implementation report are:

    a. the total number of applications
    b. the total number of applications declined by a responsible Minister
    c. the total number of applications which a responsible Minister decided not to refer to an Expert Panel
    d. the total number of applications received which were not considered by a responsible Minister as they triggered the ineligibility criteria
    e. the total number of applications which exceeded the timeframes in the legislation for processing
    f. the total number of applications which were received without approvals from parties identified in the application as affected, including relevant iwi and hapū groups
    g. the total number of applications which had their processing paused to enable additional information on the application to be prepared and provided to the relevant authorities
    h. the number of Expert Panels that have been established to hear applications under this legislation
    i. the number and extent of enforcement action taken on any consent conditions granted under this legislation
    j. the gross cost to the crown of operating the fast-track system and the net cost to the crown of operating the fast-track system (after taking revenue from application sponsors into account).

143. For this interim period, we propose that the initial system indicators and overall performance of the fast-track legislation will be jointly monitored by the Chief Executives of MfE and MBIE, with support from DOC. This provides accountability but leaves complete discretion to the relevant Ministries for the monitoring approach.

144. For this interim period, the environmental impacts arising from the implementation of the fast-track legislation will be monitored through the established environmental monitoring programmes which both MfE and DOC undertake to measure baseline environmental outcomes. This monitoring will likely only show trends although more direct monitoring will be established through the post-implementation assessment.

145. These proposed initial system indicators are not intended to measure any spill over impacts on the existing (non fast-track) consenting process. Further consideration of any spill over impacts will be provided with the on-going system performance monitoring provided in the post-implementation assessment along with tools to measure the effectiveness of the fast-track process.

146. The approach to provide discretion for joint monitoring in the interim period prior to the development of the post-implementation assessment report will enable more time to ensure the final monitoring approach identifies how we measure if the system is effective or efficient.