

**In Confidence**

**Office of the Minister for the Environment**

**Chair, Cabinet**

**COVID-19 Recovery (Fast-track Consenting) Referred Projects Order 2020**

**Proposal**

- 1 This paper seeks authorisation for submission to the Executive Council of the COVID-19 Recovery (Fast-track Consenting) Referred Projects Order 2020. The proposed Order:
  - 1.1 provides the framework for all future projects approved for referral to an expert consenting panel under the COVID-19 Recovery (Fast-track Consenting) Act 2020; and
  - 1.2 refers the first project to a Panel, Transpower New Zealand Limited's Clutha Upper Waitaki Lines - Works and Workers' Village.

**Policy**

- 2 The COVID-19 Recovery (Fast-track Consenting) Act 2020 (FTCA) enables any person to apply to the Minister for the Environment (the Minister) to fast-track a consent or designation for their project. If the Minister accepts an application it is referred to an expert consenting panel (Panel) for consideration by an Order in Council.<sup>1</sup>
- 3 Transpower New Zealand Limited's (Transpower) Clutha Upper Waitaki Lines Project – Works and Workers' Village (CUWLP) is the first project that I have accepted for referral to a Panel. On 7 September 2020 Cabinet<sup>2</sup> agreed for an Order in Council to be prepared to refer this project to a Panel.
- 4 I now seek authorisation for submission to the Executive Council of the COVID-19 Recovery (Fast-track Consenting) Referred Projects Order 2020.
- 5 The purpose of Transpower's CUWLP is to upgrade existing 220kV electricity transmission lines to increase the electricity transmission capacity between the Otago-Southland region and Waitaki Valley.
- 6 The CUWLP consists of five sections. Two sections have been completed. The remaining three sections involve:

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<sup>1</sup> Orders in Council under the FTCA are referred to as 'referral orders' within the relevant sections of the FTCA.

<sup>2</sup> CAB-20-MIN-0426, paragraph four refers.

- 6.1 adding additional lines (duplexing) to the Roxburgh – Naseby – Livingstone circuits
  - 6.2 thermally upgrading the Cromwell – Twizel circuits
  - 6.3 duplexing the Aviemore – Benmore circuits.
- 7 To complete these sections resource consents would be required from five regional and district councils if standard RMA processes were used. Referral through an Order in Council will instead enable Transpower to lodge the relevant resource consents with the Environmental Protection Authority for consideration and decision by a Panel.
- 8 The COVID-19 Recovery (Fast-track Consenting) Referred Projects Order 2020 also establishes a framework that will enable efficient drafting for future Orders and that will be accessible by the public.

### Timing and 28-day rule

- 9 Cabinet has agreed to waive the 28-day rule for Orders in Council relating to projects to be referred to a Panel.<sup>3</sup> Therefore, the COVID-19 Recovery (Fast-track Consenting) Referred Projects Order 2020 will come into force as soon as it is notified in the New Zealand Gazette. This will enable Transpower to lodge relevant applications for resource consent for the CUWLP with the Environmental Protection Authority once the Order has been gazetted.

### Compliance

- 10 The proposed Order complies with:
- 10.1 the principles of the Treaty of Waitangi
  - 10.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993
  - 10.3 the principles and guidelines set out in the Privacy Act 1993
  - 10.4 relevant international standards and obligations
  - 10.5 the Legislation Guidelines (2018 edition), which are maintained by the Legislation Design and Advisory Committee.
- 11 Before deciding to accept Transpower's application for referral, I considered pursuant to section 24 of the FTCA:
- 11.1 the application
  - 11.2 the report obtained under section 17 of the FTCA
  - 11.3 comments received within the required timeframe
  - 11.4 further information requested and provided under section 22 of the FTCA.

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<sup>3</sup> ENV-20-MIN-0033 and CAB-20-MIN-0353 refer.

12 I am satisfied that the CUWLP meets the eligibility criteria set out in section 18 of the FTCA and will help achieve the purpose of the FTCA as it:

12.1 offers economic benefits for the Otago, Canterbury, and Southland Regions

12.2 will progress faster than would otherwise be the case under standard RMA processes

12.3 will result in a public benefit, particularly in relation to facilitating further renewable energy development, emissions reductions by increasing New Zealand's total share of renewable energy and increasing the resilience of the national electricity grid in the project area.

### **Regulations Review Committee**

13 I do not consider that there are grounds for the Regulations Review Committee to draw this Order to the attention of the House of Representatives under Standing Order 319.

### **Certification by Parliamentary Counsel**

14 The Clutha Upper Waitaki Lines Project – Works and Workers' Village has been certified by the Parliamentary Counsel Office (PCO) as being in order for submission.

### **Impact Analysis**

15 The Regulatory Impact Assessment (RIA) requirements for this proposal have been waived. Cabinet has agreed that a RIA is not required for Orders in Council relating to projects to be referred to a Panel.<sup>4</sup>

### **Publicity**

16 The Order will be available on the New Zealand Legislation website following its notification in the New Zealand Gazette.

17 As required under section 25 of the FTCA, my decision to refer Transpower's application for referral to a Panel for consideration, the reasons for this decision, and the Treaty of Waitangi report obtained under section 17 have been made available to the public on the Ministry for the Environment's website.

### **Proactive Release**

18 I intend to proactively release this paper on the Ministry for the Environment's website subject to redaction as appropriate under the Official Information Act 1982.

### **Consultation**

19 In accordance with section 21 of the FTCA, I sought written comments on this application from the relevant Ministers and local authorities. Due to the potential significance of this project to the relevant iwi, I also sought written comments from Te Rūnanga o Ngāi Tahu, Te Rūnanga o Arowhenua, Aukaha and Te Ao Marama Inc. (on behalf of Papatipu Rūnanga).

20 The Ministry for the Environment also sought comment on this paper from the, Department of Conservation, Ministry for Housing and Urban Development, Ministry

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<sup>4</sup> ENV-20-MIN-0033 and CAB-20-MIN-0353 refer.

for Culture and Heritage, Te Puni Kokiri, Ministry of Education, Corrections, Land Information New Zealand, Treasury, Ministry of Transport, Ministry of Business, Innovation and Employment, Ministry for Primary Industries, Department of Prime Minister and Cabinet, Ministry of Health, New Zealand Defence Force, Department of Internal Affairs and Te Arawhiti. No substantive comments were received.

## Recommendations

I recommend that the Cabinet Business Committee:

- 1 **note** that on 7 September 2020, Cabinet agreed [CAB-20-MIN-0426 refers] that:
  - 1.1 an Order in Council be prepared under section 27 of the COVID-19 Recovery (Fast-track Consenting) Act 2020 to refer Transpower New Zealand Limited's Clutha Upper Waitaki Lines Project – Project Works and Workers' Village to an expert consenting panel
  - 1.2 a framework Order in Council be developed to support efficient drafting of future Orders in Council and to ensure they are readily accessible by the public
- 2 **authorise** the submission to the Executive Council of the COVID-19 Recovery (Fast-track Consenting) Referred Projects Order 2020
- 3 **note** that on 27 July 2020, Cabinet agreed [CAB-20-MIN-0353 refers] to waive the 28-day rule so that Orders in Council made under the COVID-19 Recovery (Fast-track Consenting) Act 2020 can come into force as soon as they are notified in the New Zealand Gazette
- 4 **note** that the COVID-19 Recovery (Fast-track Consenting) Referred Projects Order 2020 will come into force when notified in the New Zealand Gazette.

Authorised for lodgement

Hon David Parker

**Minister for the Environment**