



21st June 2020

New Zealand Planning Institute submission on the COVID-19 Recovery (Fast-track Consenting) Bill

1. The New Zealand Planning Institute (NZPI) thanks the Environment Select Committee for the opportunity to make a submission on the COVID-19 Recovery (Fast-track Consenting) Bill (the Bill).
2. NZPI is committed to empowering planners and promoting planning excellence in New Zealand. While recognising the urgent need to promote employment growth and support our country's recovery from the economic and social impacts of COVID-19, NZPI is keen to minimise any adverse and unintended consequences of planning processes that fast-track the consideration of project applications and the issuing of resource use planning consents.
3. The Bill seeks to stimulate the economy and generate employment in the wake of COVID-19 by fast tracking selected projects requiring resource consent or designation under the Resource Management Act 1991 (RMA). There are three categories of project envisaged, each having targeted provisions in the Bill: (1) listed projects, of which there are 11 specifically identified projects to be fast tracked; (2) referred projects, which are not specifically identified but for which there is a process by which applications can be assessed and sent through a fast track process; and (3) specifically identified activities for key infrastructure works by public entities that are deemed not to require consent at all (permitted activities).
4. NZPI notes in passing that while there is a process to follow in obtaining resource consent for a project, and that this can lead to delay especially when there are significant adverse effects, there are also significant costs and delays in obtaining necessary building permits and consents to satisfy the provisions and requirements of the Building Code, and, depending on the project, these can lead to significant delays in getting a project under construction. We note this, not because we seek fast tracking of important building permit processes, but to ensure that related causes of delay in implementing projects need to be part of the consideration of deciding which projects to fast track through the resource consent planning process.
5. NZPI's submissions are in three parts: Minister' decision making processes; Ministry capability; and Public participation.

Ministerial Decision-Making Processes

6. NZPI notes that as drafted Section 19, provides that the Minister “may” consider the matters set out in the Section. Thus – in effect – the Minister may consider, any, all **or none** of the matters when deciding to refer projects for decision by the panel. NZPI submits that to ensure accountability for decisions to refer projects to the panel, the Minister **must** consider the matters listed.
7. NZPI notes that while the purpose of the Act is to **urgently** promote employment growth (a reference to projects being “shovel ready”), there is no reference in Section 19, in the list of matters the Minister must consider (in NZPI’s submission) when deciding whether to refer a project to the expert consenting panel, to the “shovel ready” state of the project. NZPI considers that, among other things, the Act needs to be focussed on fast-tracking the implementation of projects that will quickly lead to jobs. Otherwise there is risk of simply adding value to potential projects (by just speeding up their resource consents) and thereby encouraging speculation and similar land-banking ventures through the fast-tracking process, instead of getting tradespeople back to work quickly. NZPI submits the list in Section 19 needs to include: “how quickly the project can be started”.

Ministry Capability

8. NZPI recognises the need for the Bill in these unprecedented times. However, we are concerned to ensure that appropriate resourcing is provided to ensure that Ministry, Ministries and/or Government Agencies supporting and giving effect to the provisions of the Bill are able to carry out their duties properly so that corners are not cut, and so that due process – albeit fast-tracked – is delivered.
9. NZPI submits that the capacity and capability of Ministry staff, who generally specialise in policy development rather than project management, will need to be significantly augmented and supported for them to prepare assessments of projects sufficient to inform Ministerial decisions about whether projects that are submitted will help achieve the purpose of the Act after consideration in terms of the matters set out in Section 19. These kinds of assessments go way beyond policy options analysis processes with which government officials are familiar, or the usual RMA considerations of effects on the environment, or the regulatory impact assessments produced by Treasury.
10. NZPI is particularly concerned that Section 19 assessment and decision-making processes are the engine room of this Fast-Tracking Bill, and we would suggest as a minimum that a high competency and multi-disciplinary advisory group be resourced to carry out the spade-work in preparation of assessments of applications to be considered by the Minister for referral.

Public Participation

11. NZPI notes the proposed process of inviting named stakeholders to comment on project applications and not to hold hearings. NZPI submits that greater public participation needs to be

provided for, to better inform decision-making (given this process will usually be far-removed from the location where the project is to occur), without delaying decisions.

12. NZPI submits that while projects that are submitted for referral to the expert panel do not need to be notified in the RMA sense, that given the relatively limited information requirements that are needed to describe a project in an application (set out in 20.3 Application for Referral), there is no practical reason for not listing those applications and the details provided on a website run by the Ministry, and inviting comment. The timing of this can be the same as when comments are sought from those listed in the Act. The website can explain that comments will be considered by the Ministry, but that no hearing or other response will occur, save perhaps being provided with a copy of the Minister's decision.
13. NZPI submits that this low-cost engagement with the public will maintain public confidence in the process and provide information and feedback that could otherwise be absent.

Conclusion

14. NZPI again thanks the Environment Select Committee for the opportunity to submit on the Bill. We wish to be heard in relation to our submission.

SUBMITTER DETAILS

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