Departmental Disclosure Statement

Fast-track Approvals Bill

The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by the Ministry for the Environment (MfE).

MfE certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

01 March 2024.

Contents

Part One: General Policy Statement

Purpose of the Bill

The Fast-track Approvals Bill (the Bill) is an omnibus Bill introduced in accordance with Standing Order 267(1)(a). The purpose of the Fast-track Approvals Bill is to provide a streamlined decision-making process to facilitate the delivery of infrastructure and development projects with significant regional or national benefits.

Approvals covered

The Bill provides a separate process for the following approvals:

- Resource consents, Notices of requirement, and Certificates of compliance under the Resource Management Act
- Concession under the Conservation Act 1987
- Authority to do anything otherwise prohibited under the Wildlife Act 1953
- Approvals under the Freshwater Fisheries Regulations 1983
- Concessions and other permissions under the Reserves Act 1977
- An archaeological authority under the Heritage New Zealand Pouhere Taonga Act 2014
- marine consents under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012
- Crown Minerals Act 1991 (s61 land access provisions)
- Aquaculture approvals under the Fisheries Act 1996
- changes to align PWA Environment Court processes with the Bill.

Treaty Settlements

The Bill specifies that all persons exercising functions under the Bill, must act in a manner that is consistent with the obligations arising under existing Treaty of Waitangi settlements and customary rights recognised under the Marine and Coastal Area (Takutai Moana) Act 2011 and Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019.

The Bill also contains information, engagement and other procedural requirements on applicants, Ministers and the Expert Panels for particular Māori groups or interests (including Treaty settlement entities and Takutai Moana rights and title holders) at various application and decision-making points in the fast-track process.

How projects will gain access to the fast-track approvals process

To access the fast-track approvals process (process) project owners must apply to joint Ministers. Joint Ministers will then refer the project to the EP to assess the details of the project. The EP will then make a recommendation back to joint Ministers who will determine if the approvals should be granted or declined.

Regionally and nationally significant projects will have access to the FT process. Ministers will have to assess the project against a set of criterial and determine if the project can be ‘fast-tracked’ by referring it to an Expert Panel. The criteria are stated in the Bill includes whether the project is regionally or nationally significant. Projects that occur on certain types of land (without approval from the land owner), or in certain areas will be ineligible for the process.

The joint Ministers must seek and consider comments from other Ministers, local government and relevant Māori groups when making this decision.

The joint Ministers have a broad discretion to decline projects access to the process, including that it would be more appropriate/efficient to go through the normal approval processes.

How the fast-track approval process will work

The Expert Panel will assess the projects and make a recommendation (back to the Joint Ministers) on whether the projects approvals should be granted or declined, and what conditions should be required.

The EP is unable to seek public submissions and is not required to conduct a hearing. An EP will be required to seek and consider comments from other Ministers, local government, Māori groups, landowners and other groups listed in the Bill.

When making recommendations the EP is required to consider the purpose of the Bill above the purposes and provisions of the Acts approvals are required under.

Once an EP has provided a recommendation to joint Ministers they must consider the recommendations by the panel and decide on whether to grant or decline the approvals. They may also direct an EP to reconsider conditions if new information is made available or direct the applicant to reapply.

Appeal rights and judicial review

The FT Bill does not limit or affect any right of judicial review. Appeals are available to the High Court on points of law only, and no appeal can be made to the Court of Appeal on a High Court determination. Appeals are limited to specific groups which include applicants, people who the EP sought comments from, and any person who has an interest greater than that of the general public.

Part Two: Background Material and Policy Information

Published reviews or evaluations

2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?	YES
The following publicly available reports are relevant: *New Directions for Resource Management in New Zealand: Report of the Resource Management Review Panel June 2020* rm-panel-review-report-web.pdf (environment.govt.nz) *Fast-track Consenting Programme Report 2020/23* Fast-track Consenting: Programme Report 2020/2023 | Ministry for the Environment *Fast track consenting Annual Report 2020/2021* PowerPoint Presentation (environment.govt.nz)	

Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	NO

Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	Partly
On 29 November 2023 Cabinet agreed (CAB-23-MIN-0468) to streamline the process for 100-Day Plan initiatives with Regulatory Impact Statement by: • exempting them from the normal quality assurance process • requiring agencies, where the Government is implementing new policy, to complete post-implementation assessments for regulatory proposals. The Treasury and MfE have agreed that an impact analysis will be prepared under the above guidelines.	

2.3.1. If so, did the RIA Team in the Treasury provide an independent opinion on the quality of any of these regulatory impact statements?	NO
As specified in 2.3.	

2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?	YES
As specified in 2.3.	

Extent of impact analysis available

2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?	**YES**
As detailed in question 2.3, the Treasury and MfE have agreed that an impact analysis would be prepared in lieu of a complete Regulatory Impact Statement	

2.5. For the policy to be given effect by this Bill, is there analysis available on:	
(a) the size of the potential costs and benefits?	**NO**
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	**NO**

2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:	
(a) the level of effective compliance or non-compliance with applicable obligations or standards?	**YES**
(b) the nature and level of regulator effort put into encouraging or securing compliance?	**YES**
The Bill specifies the information required to support applications under the specified legislation (one stop shop). There are limited opportunities for involvement of the general public in the decision-making process. This is an overall reduction in information and local expertise that usually informs usual approval processes and may result in more complex conditions and a corresponding increase in the monitoring, compliance and enforcement burden for local authorities. The Bill provides for local authorities to monitor compliance with approval conditions and take enforcement action in line with current duties and powers under the relevant approval legislation. The Department of Conservation will enforce conditions of concessions and wildlife authorities.	

Part Three: Testing of Legislative Content

Consistency with New Zealand's international obligations

3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?
There has not been any assessment of the policy contained in the FT Bill against New Zealand's international obligations, other than for the United Nations Convention on the Law of the Sea (UNCLOS) for which no conflicts were identified. .

Consistency with the government's Treaty of Waitangi obligations

3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?
Treaty impact analysis has been done during the policy development to inform Ministerial decisions. Due to timeframes and limited opportunity to garner the views of Treaty partners on the specific policy proposals this Treaty impact analysis was unable to be as detailed or as thorough as would be expected for a Bill of this significance. The Bill includes an overarching clause that specifies that all persons exercising functions under the Bill, must act in a manner that is consistent with existing Treaty of Waitangi settlements, customary rights under the Marine and Coastal Area (Takutai Moana) Act 2011 and the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act. The legislation includes further protections for Treaty of Waitangi settlements and other legislative arrangements including 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. Expert Panels convened under the Bill must collectively have: • the knowledge, skills and expertise relevant to environmental law; and • the technical expertise relevant to the activity that is being considered, and • an understanding of Te Tiriti o Waitangi and its principles • an understanding of tikanga Māori and mātauranga Māori.

Consistency with the New Zealand Bill of Rights Act 1990

3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?	**YES**
An assessment against the Bill of Rights Act 1990 is in progress.	

Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:	
(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?	**NO**
(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?	**YES**
There are limited appeal rights under this legislation. Appeal rights for Joint Ministers decisions are available to the High Court on points of law only, and no appeal can be made to the Court of Appeal on a High Court determination. In limited circumstances a party could apply to the Supreme Court for leave to bring an appeal, in accordance with the Senior Courts Act 2016. Schedule 4 (clause 44) of the FT Bill outlines the appeal rights for approvals under the RMA and are in alignment with the appeal rights specified in the FT Bill. Schedule 7 (clause 15) of the FT Bill outlines the appeal rights for approvals under the HNZPT Act and specifies that the appeal rights set out in Schedule 4 of the FT Bill, apply with all modifications, under this schedule.	

3.4.1. Was the Ministry of Justice consulted about these provisions?	**YES**
The Ministry of Justice was consulted during the development of the policy and provided the comments provided in Appendix One	

Privacy issues

3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?	**NO**

External consultation

3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?	**YES**
The timeframes around the development of the FT Bill has meant that engagement on the policy content has been focused on key groups. Discussions on the policy content remained at a high level, but best efforts were made to analyse and incorporate feedback to inform ministerial decisions. Appendix one provides further details on the engagement undertaken during development of the Bill.	

Other testing of proposals

3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?	**NO**
Due to the time constraints, there was limited engagement and collaboration with targeted groups during the policy development. Therefore, the testing and assessment has not given effect to the recommendations outlines in the Departmental Disclosure Statement Technical Guide published by The Treasury – Te Tai Ōhanga.	

Part Four: Significant Legislative Features

Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	**YES**
The Public Works Act (PWA) provides the statutory power for the Crown and local authorities to acquire land from private landowners for government and local public works. If the property cannot be acquired by agreement, the Crown can move to acquire land by compulsion.	

Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	**NO**

Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	**NO**

Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	**NO**
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	**NO**

Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	**YES**
The FT Bill provides that members of EPs are not liable for anything they do, or omit to do, in good faith in performing or exercising the functions, duties, or powers of the EP.	

Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	**YES**
Joint Ministers (and the Minister of Conservation for approvals under the Conservation Act 1987) make the substantive decision on applications based on the report and recommendations from the EP. The decision-making process for approvals under the FT Bill differs from the existing decision-making in the legislation captured in the one stop shop. The PWA Environment Court processes for projects that are part of the FT Bill one-stop shop will be changed to reduce duplication and find opportunities to streamline the considerations that are heard during Environment Court processes. It is intended that the objection rights under the PWA will be retained, and the FT Bill will not limit or affect any right of judicial review.	

Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	NO

4.8. Does this Bill create or amend any other powers to make delegated legislation?	YES
The Bill includes a provision that allows the Governor-General, by Order in Council, to make regulations, upon recommendation by Joint Ministers, that: • provide for procedural and administrative matters for the purpose of the FT process • specify requirements for a referral application (including the form or manner the application must be made) • provide for any other matters contemplated by the Bill, necessary for its administration, or necessary for giving it full effect.	

Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	YES
Appendix two provides an outline of provisions that warrant particular mention.	

Appendix One: Further Information Relating to Part Three

Ministry of Justice consultation – question 3.4.1

The Ministry of Justice is commenting on the appeal provisions as the policy agency with expertise in access to the courts.

As a start point, the Ministry of Justice considers that legislation should be consistent with the right to natural justice and should not restrict the right of access to the courts. While the requirements of natural justice can vary depending on the context, a key part of maintaining natural justice is ensuring that those affected by decisions have the opportunity to be heard in relation to those decisions. Consequently, the ability of the courts to review the legality of government action or to settle disputes is a key constitutional protection. Appeal and review rights and procedures allow for scrutiny and correction of specific decisions of first instance decision-makers, and also help to maintain a high standard of public administration and public confidence in the legal system. The Bill will also be vetted for consistency with the right to justice under section 27 of the New Zealand Bill of Rights Act, which can include the right to appeals. This comment is separate from the vetting process.

Nevertheless, this does not prevent the removal or restriction of appeal rights in specific circumstances when this is sufficiently justified.

From a policy perspective, it would be best practice for the justification for the restriction of appeal rights to questions of law, rather than a merits-based appeal, to be clearly articulated in the policy papers for these proposals as the regime was being developed. In the same way, it would be best practice for the policy papers to clearly articulate the rationale for removing the right of appeal to the Court of Appeal as the regime was being developed. Key considerations could have included how to balance the right to appeal on questions of fact – as well as questions of law – with the need for timeliness of decision making on significant infrastructure and building projects. Other key considerations could have included the need to avoid further costly litigation about the decision to approve a project, the expertise of the Expert Panels advising ministers, and the requirements on ministers when deciding to refer a project for approval.

The Ministry notes that the right to judicial review and the right of appeal to the Supreme Court is retained, in addition to the right of appeal to the High Court on questions of law.

It also notes that decisions about a fast-track consent application made by the relevant Minister will be appealable and will also be subject to judicial review.

External consultation - question 3.6

The Minister responsible for RMA Reform sent a letter on the 31 January 2024 to offer engagement with local government, Post Settlement Governance Entity (PSGE), iwi groups, and sector stakeholders on the policy development to inform the FT Bill. The engagement timeframe was limited due to time restraints to introduce the Bill within the 100-Day Action Plan. The deadline for feedback was 12 February 2024.

Following the letters, meetings and online discussions were held between partners, stakeholders, and other representative groups and officials. Attendees were informed that their feedback would be provided to the Minister. In addition to the online discussion, officials met with the Local Government Steering Group and a reference group convened by Taituarā (the Society of Local Government Professionals).

Written feedback was also received from a range of groups who were invited to engage, including local authorities, PSGEs and other Māori organisations, resource management practitioner bodies, infrastructure and development sector representative groups as well as individual businesses, and community and environmental organisations.

On 27 February 2024, Ministers met online with all PSGEs to discuss the policy proposals for the permanent fast-track consenting regime. Between 31 January and 12 February 2024 officials also met separately with 47 PSGEs and other Māori representative groups to discuss the proposals and hear feedback. Ministers Bishop and Potaka met with the National Iwi Chairs Forum (NICF)'s Pou Taiao grouping of Iwi Chairs and the Te Tai Kaha Collective (a pan-Māori advisory group comprising the New Zealand Māori Council, the Federation of Māori Authorities and Ngā Kaiārahi o te Mana o te Wai Māori). Officials have discussed the proposals with technical advisors to the NICF and the Te Tai Kaha Collective.

On 26 and 27 February 2024 officials shared the draft Bill with relevant Crown entities (New Zealand Transport Agency, Environmental Protection Agency, Heritage New Zealand and Te Waihanga – New Zealand Infrastructure Commission) as well as technical advisors to the NICF, the Iwi leaders Group, the Te Tai Kaha Collective, Te Ohu Kaimoana, a number of PSGEs, and groups yet to settle their historical Treaty of Waitangi claims where proposed redress will likely interact with the proposed fast-track regime .

A wide range of feedback was received, with some support for fast-track consenting, but also concerns about both the process (for example, short timeframes and a lack of detailed information) and substance of the Bill. Some aspects of the feedback have been incorporated into the policy design, including recovery of costs by local government, the requirement that applications must be lodged with adequate information upfront, addition of procedural steps to provide for enhanced input from PSGEs and other Māori entities, scope adjustment where "Locally significant" projects (that do not have significant regional or national benefits) are no longer included within FTC, retaining the compliance history of an applicant as a factor to be taken into account, and panels being required to take account of local statutory RMA plans.

Appendix Two: Further Information Relating to Part Four

Provisions contained in the Bill that warrant particular consideration

One-Stop Shop approvals

Consenting significant infrastructure and other development projects in New Zealand takes too long, is expensive and places insufficient value on the economic and social benefits of development, relative to other considerations. The FT Bill proposes that environmental considerations in the underlying one-stop shop legislation for which approvals can be sought via the FT Bill, will have less weight in the final decision than the purpose of the FT Bill

Conservation approvals and concessions

If permissions are requested in relation to World Heritage Areas, the Minister of Conservation must be consulted.

For permissions related to land use, DoC (in consultation with the landowners/administrators as required) will provide a report to Joint Ministers (including Minister of Conservation) outlining the ownership and management arrangements of affected Public Conservation Land/reserve land (or land with conservation covenants registered against the title), as well as any existing arrangements (formal or informal) over that land.

The decision-maker may, at their discretion, have regard to any relevant conservation general policy, conservation management strategy, conservation management plan or reserve management plan when considering an application. There is no requirement to decline an application if it does not comply with conservation policies and planning documents.

Wildlife Act permissions

The Wildlife Act involves authorities to hold, catch alive, handle or release, and in some cases to kill, absolutely protected wildlife under sections 53 and 71.

The FT Bill provides equivalent authorisations that would otherwise be required under the Wildlife Act.

In their decision-making on consents involving wildlife authorisation matters, Ministers must take into account, the purpose of the Wildlife Act, and impacts on threatened, data deficient and at-risk wildlife species.

Activities related to handling of protected wildlife will be required to meet relevant best practice standards.

DoC will provide a report on wildlife effects to the and the decision-maker will need to have particular regard to it. This report will also set out the conditions needed for all protected wildlife.

When setting approval conditions, the decision-maker must have regard to whether the condition would minimise any impacts on protected wildlife, through avoidance,

mitigation or offsetting, or that any impacts which cannot be mitigated are compensated for.

DOC will enforce any relevant conditions as part of that authorisation.

Conservation Act Concessions

The Conservation Act includes processes for granting of permissions (concessions) relating to activities over Crown conservation land.

Concessions take the form of a lease, licence, permit, or easement.

Under the Fast Track process, the EP and decision-makers must consider key aspects of the Conservation Act (including purpose for which the land is held, and effects, as well as ongoing Crown risks and liabilities).

There will be no public notification for concessions under FT Bill.

The Minister of Conservation will make final decisions on all concessions matters.

Reserves Act Concessions and Permissions

The Reserves Act encompasses a wide range of reserves, held for many different purposes and with varied ownership and administration structures.

Fast tracked projects can include activities on reserves owned/administered by DoC or local authorities.

Reserves with other ownership/administration arrangements – e.g. iwi or trusts - can also be included in the Fast Track process by agreement of the owner and administrator.

DOC reserves are managed through the concessions regime now. Activities on other reserve types (e.g. Council owned and administered reserves) are managed through a range of Reserve Act permissions.

To simplify processes, all Reserve Act permissions under the FT process will use the concessions system above, including for council-owned reserves.

Freshwater Fisheries regulations approvals

The existing legislative regime relating to freshwater fisheries is complex and spread across the Conservation Act, Fisheries Act, Biosecurity Act and two sets of regulations.

Four specific activities will be included that do not require complex technical assessments:

- the approval of culverts and other structures to which the NIWA guidelines apply, and the approval of fish rescue activities where the fish are moved to an alternative location in the same waterbody

- the approval of temporary works for infrastructure projects that would affect fish passage or local habitat, and the killing of noxious fish that are encountered during fish rescue or other operations.

No separate authorisations for applicable processes will be required – they will be dealt with through the fast track consent process.

The decision-maker would be joint Ministers for the resource consent approvals (not the Minister of Conservation).

Heritage New Zealand Pouhere Taonga Act 2014

The purpose of the Heritage New Zealand Pouhere Taonga Act 2014 (HNZPT Act) is to promote the identification, protection, preservation, and conservation of the historical and cultural heritage of New Zealand. The approvals under the HNZPT Act affected by the FT Bill are:

- Archaeological authorities under s44(a) and (b) for modification and destruction of archaeological sites for development.

When making a referral decision on an application which includes an archaeological authority, the relevant Ministers must consult with Heritage New Zealand Pouhere Taonga (HNZPT) and the Minister for Arts, Culture and Heritage on the adequacy of information provided.

In parallel with the EPs assessment of the project, HNZPT (and the Māori Heritage Council as applicable to the application) must consider any applications for archaeological authorities and provide their recommendations to the EP. The purpose of the HNZPT Act will be considered by the EP but with a lesser weighting than the purpose of the FT Bill. The Treaty clause of the HZNPT Act will not be considered, in favour of those in the FT Bill. The Joint Ministers under the FT Bill make the final decision on the authority.

Consequential changes to the HNZPT Act are necessary to make the one-stop-shop approval under the FT Bill works coherently.

Compliance, monitoring, and enforcement (CME) of approvals under fast-track will be carried out the agencies that are responsible for it under the parent legislation. We recommend this apply to archaeological authorities. HNZPT, who is responsible for CME under the HNZPT Act is best placed to provide this for authorities approved under this regime.

Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012

The EEZ Act applies to activities in the Exclusive Economic Zone and extended continental shelf. The purpose of the Act is:

- to promote the sustainable management of the natural resources of the exclusive economic zone and the continental shelf; and

- in relation to the exclusive economic zone, the continental shelf, and the waters above the continental shelf beyond the outer limits of the exclusive economic zone, to protect the environment from pollution by regulating or prohibiting the discharge of harmful substances and the dumping or incineration of waste or other matter.

The EEZ Act contains a process for activities (eg, *inter alia,* placing structures on the seabed, removing non-living natural material from the seabed, damaging the seabed, and discharging harmful substances) in the EEZ and extended continental shelf to attain marine consents. The FT Bill will provide for these consents to be granted, either in relation to a consent sought under the RMA, or standalone under the EEZ Act.

When making a FT referral decision on EEZ permissions, the Minister for the Environment (and the Minister of Conservation where applicable) will be consulted.

The FT Bill will allow the EPs to consider the key assessment, information, and decision-making requirements of the EEZ Act, but these will be remain subordinate of the purpose of the Fast-track Act, and there will be limited ability to recommend an application be refused.

The expert panel convenor is to consult the EPA when appointing the panel to consider and application in the EEZ, and the panel is to consult the EPA when prescribing conditions. The EPA will retain the ability and responsibility to review and change consent conditions, subject to the purpose of the FT Act, and will have responsibility for CME activities. The EPA will be able to recover costs from applicants related to their involvement in supporting the decision-making process and CME.

Public Works Act 1981

The PWA Environment Court processes for projects that are part of the FTC regime will be streamlined. Changes to the current Environment Court objection pathway in the PWC will reduce duplication and find opportunities to streamline the considerations that are heard during Environment Court processes. This will address barriers in the PWA processes to improve project delivery timeframes by;

- Amending s24 of the PWA so that the Environment Court would not need to reconsider alternative sites, routes or methods of undertaking a given work under the PWA objection stage, where those matters have been considered and determined in prior RMA processes under the FTC regime. This would benefit public works which are subject to an RMA designation.

- The PWA could also be amended to clarify that the Environment Court does not consider compensation as part of any objection.

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

Crown Law has advised that any new process for the FTC and PWA must not unduly restrict or remove private property rights and must accommodate natural justice requirements.

The extent to which approvals under this act will be included in the FT Bill have not been worked through in their entirety.

Crown Minerals Act

The Crown Minerals Act provides a regime for managing mining activities, which includes a permit process to allocate Crown minerals, and access arrangements to allow landowners to agree (or decline) access to their land.

Decision-makers must still consider:

- the objectives of any Act under which the land is administered
- any purpose for which the land is held by the Crown
- safeguards against any potential adverse effects of carrying out the proposed programme of work
- the direct net economic and other benefits of the proposed activity in relation to which the access arrangement is sought
- any other matters that the Joint Minister(s) consider relevant.

Decision-makers may consider any policy statement or management plan of the Crown in relation to the land.

Cultural impacts assessment

There is no requirement for Cultural Impact Assessments (CIAs) to be included in the information supporting applications, or as a requirement for Joint Ministers to consider when making a substantive decision or referral of a project to an EP.

CIAs are typically included with applications for infrastructure and development projects and provide detailed information from relevant iwi authorities about the effects of activities on Māori cultural values, under existing RMA approval processes.

CIAs would be helpful to inform the Treaty obligations report (from agencies) to outline the relevant obligations and consideration from the perspective of relevant iwi authorities. Although a CIA can be submitted as supporting information for an application, it is not a requirement under the Bill. However, a report on Treaty settlements and other obligations will be completed by agencies and provided to Joint Ministers to inform their decision on whether to refer an application to an EP. If an application is referred, Joint Ministers will also be required to provide the report to the EP. The requirement for a report on Treaty settlements and other obligations and no CIA was deemed to achieve the right balance with the need for timeliness of decision making on significant infrastructure and building projects.